

Fatality Investigations Act

CHAPTER 31 OF THE ACTS OF 2001

as amended by

2002, c. 30, ss. 3-7; 2004, c. 4, s. 111; 2013, c. 10, s. 3;
2014, c. 25, s. 5; 2019, c. 6, s. 40; 2019, c. 30; 2022, c. 26, s. 39



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amended 2002, c. 30, ss. 3-7; 2004, c. 4, s. 111; 2013, c. 10, s. 3;
2014, c. 25, s. 5; 2019, c. 6, s. 40; 2019, c. 30; 2022, c. 26, s. 39

**An Act Respecting
the Investigation of Fatalities**

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(The table of contents is not part of the statute)

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Short title

1 This Act may be cited as the *Fatality Investigations Act*. 2001, c. 31, s. 1.

Interpretation

2 (1) In this Act,

(a) “autopsy” means the dissection of a body of a person for the purpose of examining organs and tissues to determine the cause of death or manner of death or the identity of the person and includes chemical, histological, microbiological or serological tests and other laboratory investigations;

(b) “body” means a dead human body or the remains of a dead human body;

(c) “cause of death” means the medical cause of death according to the *International Statistical Classification of Diseases and Related Health Problems* as last revised by the International Conference for that purpose and published by the World Health Organization;

(ca) “Committee” means a Death Review Committee established under Section 39B, the Domestic Violence Death Review Committee established under Section 39C or the Child Death Review Committee established under Section 39D;

(d) “common-law partner” of an individual means another individual who has cohabited with the individual for a period of at least two years;

(da) “death review” means a review by a Committee under Section 39B, 39C or 39D;

(e) “health-care facility” means a hospital as defined in the *Hospitals Act*, a nursing home or residential-care facility as defined in the *Homes for Special Care Act* or a child-care facility as defined in the *Children and Family Services Act*;

(f) “inquiry” means a fatality inquiry under Section 26;

(g) “investigator” means a medical examiner’s investigator who acts as an assistant to the medical examiner in determining the manner and cause of death of a person and who is appointed under clause 3(4)(c) or a person who is a medical examiner’s investigator under Section 6;

- (h) “judge” means a judge of the Provincial Court of Nova Scotia;
- (i) “manner of death” means the mode or method of death whether natural, homicidal, suicidal, accidental or undeterminable;
- (j) “medical examiner” means a medical examiner appointed under Section 4;
- (k) “Minister” means the Minister of Justice;
- (l) “nearest relative” means the first living person on the list determined in accordance with subsection (2) who has attained the age of majority and is able and willing to act in the capacity contemplated in the relevant provision of this Act;
- (m) “pathologist” means a physician who is a specialist in pathology as recognized by the College of Physicians and Surgeons of Nova Scotia;
- (n) “physician” means a qualified medical practitioner registered under the *Medical Act*;
- (o) “spouse” means, with reference to a dead person, a person to whom the dead person was married at the time of death.

(2) For the purpose of this Act, the nearest relative of a deceased person is the first person on the following list of categories and, if there is more than one person within a category, the eldest person within that category:

- (a) the spouse or common-law partner of the deceased, if the spouse or common-law partner was cohabiting with the deceased in a conjugal relationship immediately before that person’s death;
- (b) the children of the deceased;
- (c) the parents or guardian of the deceased;
- (d) the siblings of the deceased;
- (e) the grandchildren of the deceased;
- (f) the grandparents of the deceased;
- (g) the uncles and aunts of the deceased;
- (h) the nephews and nieces of the deceased;
- (i) the next in order of kin after those persons referred to in clauses (a) to (h). 2001, c. 31, s. 2; 2019, c. 30, s. 1.

Chief Medical Examiner

3 (1) The Governor in Council shall appoint a Chief Medical Examiner who must be a pathologist with training or experience in forensic pathology.

(2) The Chief Medical Examiner holds office during good behaviour.

(3) The Chief Medical Examiner may exercise and perform the powers and duties of a medical examiner.

- (4) The Chief Medical Examiner is responsible to the Minister for
- (a) the operation of this Act in relation to the reporting, investigating and recording of deaths;
 - (b) the appointment of medical examiners;
 - (c) the appointment of investigators;
 - (d) the administration of the budget of the Office of the Chief Medical Examiner;
 - (e) the appointment of an Acting Chief Medical Examiner who may act in the place of the Chief Medical Examiner;
 - (f) the education of persons required to perform functions under this Act;
 - (g) the supervision of medical examiners and investigators in the performance of their duties; and
 - (h) the discharge of other duties as assigned by this Act or the regulations.

(5) The Chief Medical Examiner, before entering upon the duties of the office, shall take and subscribe an oath in the form prescribed in the regulations to faithfully discharge the duties of the office, which oath may be administered by a judge of the Supreme Court of Nova Scotia or the Provincial Court of Nova Scotia and the Chief Medical Examiner shall file this oath with the Minister.

- (6) The Chief Medical Examiner ceases to hold office upon
- (a) ceasing to hold a medical licence under the *Medical Act*;
 - (b) resigning in writing to the Minister;
 - (c) termination by the Minister for cause; or
 - (d) ceasing to be ordinarily resident in the Province. 2001, c. 31, s. 3.

Medical examiners

4 (1) The Chief Medical Examiner may appoint physicians as medical examiners and shall inform the Minister of each appointment and its term.

(2) A medical examiner, before entering upon the duties of the office, shall take and subscribe an oath in the form prescribed in the regulations that the medical examiner will faithfully discharge the duties of the medical examiner's office, which oath may be administered by a judge of the Supreme Court of Nova Scotia or the Provincial Court of Nova Scotia and the medical examiner shall file this oath with the Minister.

(3) An appointment of a medical examiner made before the coming into force of this Act is deemed to be an appointment of the medical examiner under this Act.

(4) An oath of office sworn by a medical examiner before the coming into force of this Act is deemed to be an oath of office as sworn by the medical examiner under this Act.

- (5) A medical examiner ceases to hold office upon
- (a) ceasing to hold a medical licence under the *Medical Act*;
 - (b) resigning in writing to the Minister;
 - (c) termination of the medical examiner's appointment by the Chief Medical Examiner;
 - (d) termination of the medical examiner's appointment by order of the Minister; or
 - (e) ceasing to be ordinarily resident in the Province.

(6) A medical examiner is suspended during any period that the medical examiner's registration as a medical practitioner is suspended under the *Medical Act*.

(7) The Minister may suspend the appointment of a medical examiner during any period that a complaint regarding the medical examiner is under review by the Chief Medical Examiner. 2001, c. 31, s. 4.

Investigation of deaths

5 (1) Upon notification of a death, where the medical examiner is satisfied that the death occurred under a circumstance referred to in Sections 9 to 12, the medical examiner shall investigate the death and, where possible, establish

- (a) the identity of the person;
- (b) the date, time and place of death;
- (c) the cause of death; and
- (d) the manner of death.

(2) A medical examiner shall keep a record of all deaths of which the medical examiner is notified under this Act and shall provide to the Chief Medical Examiner a record of all investigations that the medical examiner or an investigator under the supervision of the medical examiner makes into a death, including the reports, certificates and other documents prescribed by the Chief Medical Examiner.

(3) In making a report under subsection (2), a medical examiner or investigator shall not express an opinion with respect to culpability.

(4) Where a medical examiner is unable to investigate a death of which the medical examiner receives notice, the medical examiner shall

- (a) notify another medical examiner if the death occurred in a circumstance referred to in Sections 9 to 12; and
- (b) record why the death was not investigated by the medical examiner.

(5) When a medical examiner has investigated a death and has determined the manner and cause of death, the medical examiner shall submit a medical certificate of death in accordance with the *Vital Statistics Act*.

(6) A medical examiner may authorize a physician to submit a medical certificate of death.

(7) Where a medical examiner has authorized a physician to complete a medical certificate of death for a person who has died in a circumstance referred to in Sections 9 to 12, the medical examiner shall establish and record

- (a) the identity of the person;
- (b) the date, time and place of death;
- (c) the cause of death;
- (d) the manner of death; and
- (e) the name of the physician who completed the medical certificate of death. 2001, c. 31, s. 5.

Duties and powers of investigators

- 6 (1) An investigator, when authorized by a medical examiner,
- (a) shall assist the medical examiner in carrying out the medical examiner's duties under this Act; and
 - (b) may exercise the powers and perform the duties of a medical examiner set out in Section 5 but where the investigator is not a physician, the investigator may not sign a medical certificate of death.

(2) Every member of a municipal police department, the Serious Incident Response Team or the Royal Canadian Mounted Police serving in the Province is, by virtue of the member's office, a medical examiner's investigator and shall act under the direction of a medical examiner or investigator. 2001, c. 31, s. 6; 2002, c. 30, s. 3; 2014, c. 25, s. 5.

Powers of medical examiners and investigators to investigate

- 7 (1) A medical examiner or an investigator acting under the medical examiner's authorization may, without a warrant,
- (a) enter a place where the medical examiner or the investigator believes, on reasonable grounds, that a body that is the subject of an investigation, or matters related to the body, is or has been located;
 - (b) take possession of anything that the medical examiner or the investigator has reasonable grounds to believe may be directly related to the death or may assist in determining the issues set out in subsection 5(1) and place anything seized into the custody of a peace officer;
 - (c) cordon off or secure the scene or area in which the death under investigation occurred for a period not exceeding forty-eight hours or such further period as the Chief Medical Examiner may authorize;

(d) inspect and make copies of a diagnosis, a record or information relating to a person who has received diagnostic and treatment services;

(e) with the approval of the Chief Medical Examiner, obtain the services or retain expert assistance for a part of the medical examiner's or investigator's investigation; and

(f) take photographs or inspect and make copies of documents or information in any form if the medical examiner or investigator has reasonable grounds to believe that this may assist in determining any of the issues set out in subsection 5(1).

(2) When a medical examiner or investigator is exercising a power under subsection (1), the medical examiner or investigator may be accompanied by any person whose assistance is required as part of an investigation.

(3) Where the Chief Medical Examiner applies to a judge or justice of the peace for a warrant on the basis of a belief on reasonable grounds that

(a) it is necessary to do so for the purpose of an investigation under this Act; and

(b) evidence related to the identity of a deceased person, the manner or cause of a death or the date, time or place of death may be found in a building, receptacle or place,

the judge or justice of the peace may issue a warrant authorizing the Chief Medical Examiner, a medical examiner or an investigator acting under the Chief Medical Examiner's authority to enter and search the building, receptacle or place and to take possession of anything that any of those persons believes, on reasonable grounds, may be directly or indirectly related to the death.

(4) The items seized under subsection (1) or (3) may only be used to establish the identity of a deceased person, the cause and manner of death or the date, time or place of death as required for the purpose of this Act.

(5) Notwithstanding subsection (4), where a peace officer or an officer authorized under an enactment has reasonable grounds to believe that items seized under subsection (1) or (3) are relevant to an investigation into a possible contravention of the law or are required for another lawfully authorized purpose, the peace officer or officer may apply to a justice of the peace or a judge for a warrant or an order permitting access to or possession of the items on such grounds as the justice of the peace or judge considers reasonable.

(6) Notwithstanding subsections (4) and 5(1), a medical examiner or investigator may collect information relating to the facts or circumstances of a death if requested to do so by a Committee.

(7) Notwithstanding subsection (4), for the purpose of conducting a death review, a Committee may use any information acquired by a medical examiner or investigator in the course of conducting an investigation or preparing a report under this Act. 2001, c. 31, s. 7; 2002, c. 30, s. 4; 2019, s. 30, s. 2.

Jurisdiction and conflicts

8 (1) Unless otherwise directed by the Minister or the Chief Medical Examiner, a medical examiner or investigator has jurisdiction throughout the Province.

(2) A medical examiner shall not engage a person to act as an investigator where the person has an interest, whether professional or personal, that conflicts with the duties of an investigator under this Act unless the medical examiner first advises the Chief Medical Examiner of the conflict and the Chief Medical Examiner authorizes the medical examiner to engage the person as an investigator.

(3) A medical examiner shall not act as a medical examiner where the medical examiner has an interest, whether professional or personal, that conflicts with the duties of a medical examiner under this Act unless the medical examiner first advises the Chief Medical Examiner of the conflict and the Chief Medical Examiner authorizes the medical examiner to act as a medical examiner. 2001, c. 31, s. 8.

Duty to notify of death

9 A person having knowledge of or reason to believe that a person has died under one of the following circumstances shall immediately notify a medical examiner or an investigator:

- (a) as a result of violence, accident or suicide;
- (b) unexpectedly when the person was in good health;
- (c) where the person was not under the care of a physician;
- (d) where the cause of death is undetermined; or
- (e) as the result of improper or suspected negligent treatment by a person. 2001, c. 31, s. 9.

Death in health-care facility

10 (1) Where a person dies while in a health-care facility and there is reason to believe that

- (a) the death occurred as the result of violence, suspected suicide or accident;
- (b) the death occurred as a result of suspected misadventure, negligence or accident on the part of the attending physician or staff;
- (c) the cause of death is undetermined;
- (d) a stillbirth or a neonatal death has occurred where maternal injury has occurred or is suspected either before admission or during delivery; or
- (e) the death occurred within ten days of an operative procedure or under initial induction, anaesthesia or the recovery from anaesthesia from that operative procedure,

the person responsible for that facility shall immediately notify a medical examiner or an investigator.

(2) Where a person is declared dead on arrival or dies in the emergency department of a health-care facility as a result of a circumstance referred to in subsection (1), the person responsible for that facility shall immediately notify a medical examiner or an investigator. 2001, c. 31, s. 10.

Death in custody or detention

11 (1) Where a person dies

(a) while detained or in custody in a correctional institution such as a jail, penitentiary, guard room, remand centre, detention centre, youth facility, lock-up or any other place where a person is in custody or detention;

(b) while an inmate who is in a hospital or a facility as defined in the *Hospitals Act*;

(c) in an institution designated in the regulations;

(d) while in the custody of the Minister of Community Services pursuant to the *Children and Family Services Act*; or

(e) while detained by or in the custody of a peace officer or as a result of the use of force by a peace officer while on duty,

the person in charge of that institution or the person detaining or having the custody of the deceased person shall immediately notify a medical examiner or an investigator.

(2) Where a person dies while committed to a facility or institution set out in subsection (1) but while not on the premises or in actual custody, the person in charge of that facility or institution, jail or other place shall, immediately on receiving notice of the death, notify a medical examiner. 2001, c. 31, s. 11.

Death probably related to employment or occupation

12 Where a person dies as the result of

(a) a disease or ill health;

(b) an injury sustained by the person; or

(c) a toxic substance introduced into the person,

probably caused by or connected with the person's employment or occupation, the physician attending the deceased person at the time of that person's death shall immediately notify a medical examiner or an investigator. 2001, c. 31, s. 12.

Autopsy

13 (1) A medical examiner may authorize the autopsy of the body of a person who died under a circumstance referred to in Sections 9 to 12.

(2) Where a medical examiner authorizes an autopsy, the autopsy shall be carried out by a pathologist.

(3) A person who performs an autopsy shall provide the medical examiner who authorized the autopsy with autopsy reports as soon as is practicable. 2001, c. 31, s. 13.

Removal of organs or tissues

14 (1) Where the removal of the tissue or organs does not interfere with an investigation or proceeding and appropriate consent has been obtained under the *Human Organ and Tissue Donation Act*, a medical examiner may remove or allow the removal of organs or tissues for therapeutic, medical education or scientific research.

(2) Where a person has been declared legally dead but where that person's organ functions are sustained by artificial means, and the appropriate consent has been given under the *Human Organ and Tissue Donation Act* for live organ donation, the medical examiner shall be notified and shall determine whether the removal of those tissues or organs will interfere with an investigation or proceeding. 2001, c. 31, s. 14; 2019, c. 6, s. 40.

Duty where death but no body

15 Where a person knows or believes that a death has occurred in the Province but no body has been located, that person shall immediately notify a medical examiner or an investigator who shall notify the Chief Medical Examiner. 2001, c. 31, s. 15.

Unidentified or unclaimed body

16 (1) Where a body is unidentified or unclaimed and an investigation indicates that the body is likely to remain unidentified or unclaimed, the Chief Medical Examiner shall arrange for the storage of the body for a period of seven days from the completion of the investigation.

(2) Where, on the expiry of the seven-day period, the body remains unidentified or unclaimed, the Public Trustee may deal with the body in accordance with the *Public Trustee Act*. 2001, c. 31, s. 16; 2022, c. 26, s. 39.

Items seized

17 Where a medical examiner or an investigator seizes anything under subsection 7(1), except prescription medicines, illegal drugs or other dangerous or illegal items or substances, the medical examiner shall, unless otherwise required by court order or pursuant to a search warrant, retain it until the conclusion of an investigation or inquiry into the death and then shall return it to the person from whom it was seized or, if that person is deceased, to that person's nearest relative. 2001, c. 31, s. 17; 2002, c. 30, s. 5.

Destruction of soiled or damaged clothing

18 A medical examiner may destroy soiled or damaged clothing that was taken into possession with a body and that is not required for the purpose of this Act or an investigation or proceeding conducted under another Act of the Province. 2001, c. 31, s. 18.

No cleaning or alterations to body

19 (1) No person who has reason to believe that a person died under a circumstance referred to in Sections 9 to 12 shall, except under a direction of a medical examiner or the Chief Medical Examiner,

(a) clean or make alterations to the body or clothing on the body or objects attached to the body; or

(b) apply a chemical or other substance to the body internally or externally.

(2) Subsection (1) does not apply to a person who makes alterations or applies a chemical or other substance to a body for the purpose of resuscitation. 2001, c. 31, s. 19.

Restriction on cremation or disposal of body

20 No person shall

(a) cremate a body or otherwise dispose of a body in such a manner that the body is not available for future examination; or

(b) ship or take a body from a place in the Province to a place outside of the Province,

until a medical examiner or an investigator authorized by a medical examiner issues a certificate in the form prescribed by the Chief Medical Examiner stating that the medical examiner or the investigator has examined the medical certificate of death. 2001, c. 31, s. 20; 2013, c. 10, s. 3.

Body brought into Province

21 Where a body is brought into the Province for ultimate disposal and it is determined that the body will not be required for future examination, no person shall dispose of the body until a medical examiner or investigator has been notified and has

(a) inspected the medical certificate of death or other documents which accompany the body;

(b) made the investigation that may be necessary to establish or confirm the cause of death; and

(c) issued a certificate as prescribed by the Chief Medical Examiner. 2001, c. 31, s. 21.

Disinterment

22 (1) Notwithstanding the *Health Protection Act*, the Chief Medical Examiner may order a body disinterred for the purpose of an investigation under this Act.

(2) Copies of an order under subsection (1) shall be given at least forty-eight hours before the disinterment to

(a) the spouse or, where there is no spouse, the nearest relative of the deceased who resides in the Province;

(b) a medical health officer;

(c) the Registrar of Vital Statistics; and

(d) the owner or the person in charge of the cemetery or mausoleum where the body is buried or stored. 2001, c. 31, s. 22; 2004, c. 4, s. 111.

Release of reports or records

23 (1) All reports, certificates and other records made by a person under this Act are the property of the Government of the Province, and no such report, certificate or record, other than a medical certificate of death completed in accordance with the *Vital Statistics Act* or reports, certificates and other records released in the course of an inquiry held pursuant to this Act, may be released without the permission of the Chief Medical Examiner.

(2) On completion of an investigation and on receipt of a request from the nearest relative, the executor or executrix of the deceased or other interested party considered valid by the Chief Medical Examiner, a report shall be completed and sent by the Chief Medical Examiner to the person making the request. 2001, c. 31, s. 23.

Notification about suspected offence

24 Where, during the course of an investigation, a medical examiner is of the opinion that an offence related to the death being investigated may have been committed, the medical examiner shall immediately notify the Chief Medical Examiner and the peace officer in charge of the police detachment or station that is closest to the place at which the medical examiner believes the offence to have occurred. 2001, c. 31, s. 24.

Obstruction

25 No person shall hinder, obstruct or interfere with the Chief Medical Examiner, a medical examiner or an investigator in the performance of the duties of the Chief Medical Examiner, medical examiner or investigator under this Act. 2001, c. 31, s. 25; 2002, c. 30, s. 6.

Recommendation for inquiry

26 (1) Where the Chief Medical Examiner is of the view that it is necessary that a fatality inquiry be held regarding one or more deaths that occurred under a circumstance referred to in Sections 9 to 12, the Chief Medical Examiner may recommend to the Minister that an inquiry be held.

(2) A recommendation under this Section shall be in writing and be accompanied by all reports, documents and certificates that may be relevant to the death. 2001, c. 31, s. 26.

Minister's powers or recommendation

27 (1) Where the Chief Medical Examiner recommends to the Minister under Section 26 that a fatality inquiry be held, the Minister shall order that an inquiry be held.

(2) Where the Minister is satisfied that a fatality inquiry is in the public interest or the interest of public safety, the Minister may order that an inquiry be held.

(3) Where the Minister orders that a fatality inquiry be held pursuant to ~~subsections~~ [subsection] (1) or (2), the Chief Judge of the Provincial Court of Nova Scotia shall appoint a judge to conduct an inquiry and make recommendations on any issues identified in the order of the Minister. 2001, c. 31, s. 27.

No opinion to be expressed on culpability

28 In recommending to the Minister to hold an inquiry, the Chief Medical Examiner shall not, with respect to the death or deaths for which the inquest is to be held, express an opinion with respect to culpability. 2001, c. 31, s. 28.

Powers of judge holding inquiry

29 A judge who holds an inquiry under this Act has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*. 2001, c. 31, s. 29.

Report and attendance by medical examiner

30 (1) A report that purports to be made by a medical examiner pursuant to subsection 5(2) shall be admitted in evidence without proof of the signature or appointment of the medical examiner.

(2) Notwithstanding subsection (1), a judge may require a medical examiner to attend and give evidence at a fatality inquiry and the medical examiner is entitled to receive a fee for attendance as prescribed by the regulations if the medical examiner is not a full-time employee of the Province. 2001, c. 31, s. 30.

Evidence at inquiry

31 (1) Subject to subsection (2), a judge may admit in evidence at a fatality inquiry

- (a) any oral testimony; or
- (b) any document or other thing,

that is relevant to the purposes of the fatality inquiry but shall refuse to admit in evidence all or part of any oral testimony or any document or other thing if the judge is satisfied that the oral testimony, document or other thing or part of it is vexatious, unimportant or unnecessary for the purpose of the fatality inquiry.

(2) Notwithstanding any enactment, a judge may admit in evidence all or any relevant part of a diagnosis, record or information referred to in subsection (1) to enable the judge to make findings and recommendations and to report in respect of any or all of the matters set out in subsection 39(1).

(3) Nothing is admissible in evidence at a fatality inquiry that would be inadmissible in a judicial proceeding by reason of any privilege under the law of evidence.

(4) When a document has been admitted in evidence at a fatality inquiry, the judge may, or the person producing it or entitled to it may, with the leave of the judge, cause the document to be copied and the judge may

- (a) authorize the copy to be admitted in evidence in the place of the document admitted and release the document admitted; or
- (b) furnish to the person producing it or the person entitled to it a copy of the document admitted that has been certified by the judge. 2001, c. 31, s. 31.

Hearings open or in camera

32 All hearings at a fatality inquiry under this Act shall be open to the public except where the judge is of the opinion that

- (a) matters involving public security may be disclosed; or
- (b) intimate or personal matters or other matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure of the matters in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the judge may hold the hearing or any part of it concerning any such matters *in camera*. 2001, c. 31, s. 32.

Decision final

33 No decision of the judge that a hearing or any part of it be held *in camera* or in public shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court, whether by way of *certiorari*, *mandamus*, injunction, declaratory judgment, prohibition, *quo warranto* or otherwise, to question, review, prohibit or restrain that decision. 2001, c. 31, s. 33.

No publication of in camera evidence

34 (1) No person shall knowingly and wilfully release, publish or disclose or cause to be released, published or disclosed to anyone any oral testimony or documentary evidence introduced or heard *in camera* at a fatality inquiry.

- (2) Subsection (1) does not apply to
 - (a) oral testimony; or
 - (b) documentary evidence,

contained in the findings of the judge or in the written report of the judge under Section 39 or otherwise released by or under the authority of the judge. 2001, c. 31, s. 34.

Stay of inquiry

35 (1) The Minister or the judge may at any time before or during a fatality inquiry stay the inquiry

- (a) for the purpose of allowing a police investigation in respect of a death; or
- (b) pending the determination of a charge where a person is charged in respect of a death.

(2) Where the Minister has stayed a fatality inquiry pursuant to subsection (1), the Minister may refer the matter back to the judge to continue the fatality inquiry at a later date.

(3) Where a judge has stayed a fatality inquiry pursuant to subsection (1) and subsequently determines that it is no longer necessary for the inquiry to be stayed, the judge shall continue the inquiry. 2001, c. 31, s. 35.

Crown attorney or Minister to appear at inquiry

36 (1) A ~~Crown~~ [crown] attorney or counsel for the Minister shall appear at a fatality inquiry and may examine and cross-examine witnesses and present arguments and submissions.

- (2)** The participants at a fatality inquiry are
- (a) a personal representative of the deceased; and
 - (b) any person who applies to the judge before or during the inquiry and is declared by the judge to be an interested person.
- 2001, c. 31, s. 36.

Record of evidence

37 A record of the evidence received at a fatality inquiry, including a list of exhibits and witnesses, shall be made. 2001, c. 31, s. 37.

Transfer to another judge

38 Where a fatality inquiry is commenced by a judge who dies or retires or is removed from office before the completion of the fatality inquiry, or who for any reason is unable to complete the fatality inquiry, the Chief Judge of the Provincial Court may appoint another judge to complete the fatality inquiry or to conduct another fatality inquiry. 2001, c. 31, s. 38.

Report of judge

39 (1) At the conclusion of the fatality inquiry, the judge shall make and file with the Provincial Court a written report containing any findings made by the judge as to

- (a) the identity of the deceased;
- (b) the date, time and place of death;
- (c) the circumstances under which the death occurred;
- (d) the cause of death;
- (e) the manner of death; and
- (f) the issues identified by the Minister in the order requiring an inquiry to be held,

and shall send a copy of the report to the Minister.

(2) The findings of the judge shall not contain any findings of legal responsibility.

(3) The report and findings of the judge under subsection (1) and any recommendations made by the judge shall not disclose any matters heard or disclosed *in camera* unless the judge is satisfied that the disclosure is essential in the public interest. 2001, c. 31, s. 39.

Interpretation of Sections 39A to 39K and 41A

39A In this Section and Sections 39B to 39K and 41A,

(a) “child death” means the death of a person under nineteen years of age that occurred under a circumstance referred to in Section 9 where, at the time of death, the person was

(i) in the care and custody of an agency pursuant to the *Children and Family Services Act*,

(ii) the subject of a supervision order pursuant to the *Children and Family Services Act*,

(iii) a resident of, or attending and present in, a child-caring facility licensed or approved under the *Children and Family Services Act*,

(iv) admitted to and assigned a bed in a hospital as defined in the *Hospitals Act*,

(v) a resident of a residential care facility or nursing home licensed under the *Homes for Special Care Act*,

(vi) detained or in custody in a correctional facility as defined in the *Correctional Services Act* or being transferred to or from a correctional facility by a sheriff as defined in that Act,

(vii) attending and present at a public school as defined in the *Education Act*,

(viii) in transit to or from a public school as defined in the *Education Act* while on a school bus,

(ix) attending an event or program offered by or on behalf of an education entity as defined in the *Education Act* or sanctioned by a public school, such as a field trip or a sporting event,

(x) attending a program and present in a day care facility or family day care home managed by an agency licensed under the ~~*Day Care Act*~~ [*Early Learning and Child Care Act*],

(xi) attending and present at a pre-primary program provided under the *Pre-primary Education Act* or otherwise offered by an education entity as defined in the *Education Act*, or

(xii) in the custody or care of any other person or body as prescribed by the regulations;

(b) “death review information” means information that was communicated for the purpose of, or created in the course of, the carrying out of a death review by a Committee and is in the custody of a Committee or a medical examiner;

(c) “domestic violence death” means

(i) a homicide that involves the death of

(A) a person, the person’s child or other family member, or

(B) any other person present at a domestic violence incident involving a person

that is committed by the person’s current or former intimate partner, or

(ii) a homicide-suicide where, in addition to a death referred to in subclause (i), the current or former intimate partner commits suicide;

(d) “intimate partner” means, with respect to a person, an individual who is or was a spouse, common-law partner, dating partner or sexual partner of the person or in a similar relationship with the person. 2019, c. 30, s. 3.

Death Review Committees

39B (1) The Minister may, in consultation with the Chief Medical Examiner, establish one or more Death Review Committees to review the facts and circumstances of deaths referred to in subsection (2) for the purpose of

- (a) investigating and monitoring trends involving deaths;
- (b) reviewing the facts and circumstances relating to specific deaths;
- (c) providing advice and recommendations to the Minister; and
- (d) performing other duties and functions as prescribed by the regulations.

(2) A Death Review Committee may review the facts and circumstances of one or more deaths that occurred under a circumstance referred to in Sections 9 to 12 as determined by the Minister.

(3) A Death Review Committee shall not conduct a death review with respect to a specific death until a medical examiner has completed the medical examiner’s duties under Section 5. 2019, c. 30, s. 3.

Domestic Violence Death Review Committee

39C (1) There is hereby established a Domestic Violence Death Review Committee to review the facts and circumstances of domestic violence deaths for the purpose of

- (a) investigating and monitoring trends involving domestic violence deaths;
- (b) reviewing the facts and circumstances relating to specific domestic violence deaths;
- (c) providing advice and recommendations to the Minister regarding the prevention and reduction of domestic violence deaths; and
- (d) performing other duties and functions as prescribed by the regulations.

(2) The Domestic Violence Death Review Committee may review the facts and circumstances of one or more domestic violence deaths during a review.

(3) The Domestic Violence Death Review Committee shall not conduct a death review with respect to a specific domestic violence death until a medical examiner has completed the medical examiner’s duties under Section 5. 2019, c. 30, s. 3.

Child Death Review Committee

39D (1) There is hereby established a Child Death Review Committee for the purpose of

- (a) reviewing aggregate, population-level information regarding deaths of persons under twenty-five years of age to find trends and inform prevention programs;
- (b) reviewing the facts and circumstances relating to specific child deaths;
- (c) providing advice and recommendations to the Minister respecting the prevention and reduction of
 - (i) deaths of persons under twenty-five years of age, and
 - (ii) child deaths; and
- (d) performing other duties and functions as prescribed by the regulations.

(2) The Child Death Review Committee shall not conduct a death review with respect to a specific child death until a medical examiner has completed the medical examiner's duties under Section 5.

(3) The Minister may, in consultation with the Chief Medical Examiner, direct the Child Death Review Committee to review the facts and circumstances of the death of a person under nineteen years of age that occurred under a circumstance referred to in Sections 9 to 12. 2019, c. 30, s. 3.

Appointment, remuneration and composition of a Committee

39E (1) Members of a Committee are to be appointed in the manner prescribed by the regulations.

(2) The Minister may prescribe, authorize or provide for the payment of remuneration and expenses of Committee members.

(3) The membership of the Domestic Violence Death Review Committee must include persons with knowledge and expertise in the area of domestic violence.

(4) The membership of the Child Death Review Committee must include persons with knowledge and expertise in the delivery of government services to persons under nineteen years of age.

(5) The Chief Medical Examiner is the Chair of all Committees.

(6) The Minister shall, after consultation with the Chief Medical Examiner, designate one of the members of each Committee to be the Vice-chair of that Committee.

(7) In case of the absence of the Chair of a Committee or the Chair's inability to act, the Vice-chair shall perform the duties and exercise the powers of the Chair. 2019, c. 30, s. 3.

Criminal investigation or prosecution of specific death

39F A death review respecting a specific death may not interfere with a criminal investigation or prosecution. 2019, c. 30, s. 3.

Report of Committee

39G (1) Upon completing a death review, a Committee shall prepare a written report containing

- (a) its findings respecting the matter that is the subject of the review;
- (b) its advice and recommendations to the Minister respecting the prevention of similar deaths; and
- (c) any other information as may be prescribed by the regulations.

(2) The findings of a Committee may not include any findings of legal responsibility or any conclusions of law.

(3) A Committee shall provide the report prepared under subsection (1) to the Minister in the manner prescribed by the regulations.

(4) A Committee shall not disclose the report to any other person or body unless authorized to do so by the Minister.

(5) Notwithstanding subsection (4), where the subject-matter of a death review conducted by the Child Death Review Committee involves the death of a child under the custody, care or purview of a Government department other than the Department of Justice, the Child Death Review Committee shall provide a copy of the report to the Minister responsible for that department. 2019, c. 30, s. 3.

Information Committee may access

39H (1) Notwithstanding any other enactment, in conducting a death review, a Committee is entitled to access or make copies of any information, including personal information and personal health information, that

- (a) is in the custody or under the control of a public body as defined in the *Freedom of Information and Protection of Privacy Act*, a municipality as defined in Part XX of the *Municipal Government Act* or a custodian as defined in the *Personal Health Information Act*; and
- (b) the Committee considers necessary to enable it to carry out a death review.

(2) A public body or custodian shall, upon request from a Committee, disclose to the Committee the information to which the Committee is entitled under subsection (1).

(3) Nothing in this Section compels the disclosure of any information or records that are subject to any type of privilege, including solicitor-client privilege.

(4) Except as provided under this Act, a member of a Committee, or a person acting under the direction of, or on behalf of, a Committee shall not publish or disclose to any person or body any information recorded, compiled or created for or by, or provided to, the Committee in the course of a death review.

(5) The *Freedom of Information and Protection of Privacy Act*, Part XX of the *Municipal Government Act* and the *Personal Health Information Act* do not apply to Committees or to death review information. 2019, c. 30, s. 3.

No action lies

39I (1) No action lies against a Committee, a member of a Committee or any person acting on behalf of, or under the direction of, a Committee for anything done, or omitted to be done, in good faith in the exercise of a power or performance of a duty or function under Sections 39B to 39H or the associated regulations.

(2) No action lies against a person who, in good faith, discloses information to a Committee at the request of the Committee or for the purpose of assisting the Committee with a death review. 2019, c. 30, s. 3.

Admissibility of evidence

39J (1) A member of a Committee shall not give or be compelled to give evidence in any criminal or civil proceeding in respect of any matter coming to that member's knowledge in the course of a death review, except in a prosecution for perjury.

(2) Nothing in subsection (1) prevents a member of a Committee from giving or being compelled to give evidence in any criminal or civil proceeding in respect of information or knowledge regarding the subject-matter of a death review that was acquired outside of the death review process.

(3) Death review information is not admissible in evidence in a legal proceeding. 2019, c. 30, s. 3.

Lawful use of information

39K Nothing in Sections 39H to 39J prevents the lawful use of, disclosure of or access to information regarding the subject-matter of a death review that was obtained or created outside of the death review process. 2019, c. 30, s. 3.

Offences and penalties

40 A person who fails to comply with this Act or the regulations or who obstructs or hinders any person in that person's performance of duties pursuant to this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine of not more than one thousand dollars and to imprisonment for a term of not more than six months or to both a fine and imprisonment. 2001, c. 31, s. 40.

Regulations

- 41 (1)** The Governor in Council may make regulations
- (a) prescribing fees payable under this Act

- and
- (i) to witnesses, court reporters and interpreters,
 - (ii) to persons who provide services under this Act;
 - (b) respecting the procedures to be followed by medical examiners or investigators who conduct investigations under this Act;
 - (c) respecting the procedures to be followed by pathologists who perform autopsies under this Act;
 - (d) prescribing the forms of any oaths required to be sworn pursuant to this Act;
 - (e) prescribing reports, certificates and other documents that must be provided to medical examiners and the Chief Medical Examiner;
 - (f) prescribing a tariff of fees to be charged for services provided under this Act;
 - (g) designating any place as an institution for the purpose of Section 11;
 - (h) prescribing the persons and classes of persons to whom copies of autopsy reports made under subsection 13(3) shall be provided by the Chief Medical Examiner;
 - (i) defining any word or expression used but not defined in this Act;
 - (j) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2001, c. 31, s. 41.

Ministerial regulations

- 41A (1)** The Minister may make regulations
- (a) prescribing persons or bodies for the purpose of subclause 39A(a)(xii);
 - (b) prescribing the manner of appointments to a Committee;
 - (c) prescribing the term of office and qualification of any member of a Committee;
 - (d) prescribing the payment of remuneration and expenses to any member of a Committee;
 - (e) prescribing the terms of reference of a Committee;
 - (f) establishing the duties, powers and functions of a Committee and its members;
 - (g) respecting the procedures to be followed by a Committee in conducting a death review;
 - (h) respecting the types of deaths and the circumstances involving deaths that may be reviewed by a Committee;

(i) respecting matters other than deaths that may be reviewed by a Committee;

(j) prescribing the content that must be included in a report by a Committee and the manner and timing in which a Committee must provide its report to the Minister or to the Minister of a department as provided for under subsection 39G(5);

(k) respecting the publication of all or part of a Committee report, including the summaries or recommendations that may be part of a report;

(l) authorizing the Chair of a Committee to enter into agreements with persons or bodies to facilitate the work of a Committee;

(m) determining when the work of a Committee must be stayed;

(n) respecting any matter or thing the Minister considers necessary or advisable to effectively carry out the intent and purpose of Sections 39A to 39K.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2019, c. 30, s. 4

Coal Mines Regulation Act amended

42 *amendment*

Court and Administrative Reform Act amended

43 *amendment*

Fatality Inquiries Act repealed

44 **Chapter 164 of the Revised Statutes, 1989, the *Fatality Inquiries Act*, is repealed.** 2001, c. 31, s. 44.

Human Tissue Gift Act amended

45 *amendments*

Vital Statistics Act amended

46 *amendments*

Proclamation

47 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2001, c. 31, s. 47.

Proclaimed - April 4, 2003
In force - April 4, 2003