

1979 BILL 14

First Session, 19th Legislature, 28 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 14

THE FATALITY INQUIRIES  
AMENDMENT ACT, 1979

MR. PAHL

First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

*Bill 14*  
*Mr. Pahl*

## **BILL 14**

1979

### **THE FATALITY INQUIRIES AMENDMENT ACT, 1979**

*(Assented to , 1979)*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

*1 The Fatality Inquiries Act is amended by this Act.*

*2 Section 16(1) is repealed and the following is substituted:*

**16(1)** No person shall

(a) cremate a body, or

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

until a medical examiner issues a certificate stating that he has caused the body to be inspected and has examined the medical certificate of death.

(1.1) A certificate issued under subsection (1) shall be in the form prescribed by the Chief Medical Examiner.

*3 Section 28 is repealed and the following is substituted:*

**28(1)** Notwithstanding section 27(2)(b), a medical examiner may remove or allow the removal of

(a) tissue in accordance with the *The Human Tissue Gift Act*, or

(b) pituitary glands that are intended to be delivered to a person or agency to be used for therapeutic purposes, medical education or scientific research,

if the removal of the tissue or pituitary gland does not interfere with any investigation or proceeding under any law in force in Alberta.

## **Explanatory Notes**

**1** This Act will amend chapter 66 of the Statutes of Alberta, 1976.

**2** Section 16(1) presently reads:

*16(1) No person shall*

*(a) cremate a body, or*

*(b) ship or take a body from any place in Alberta to any place outside of Alberta,*

*until a medical examiner issues a certificate in the form prescribed by the regulations stating that he has caused the body to be examined and has examined the medical certificate of death.*

**3** Section 28 presently reads:

*28 Notwithstanding section 27, subsection (2), clause (b), a medical examiner may allow the removal of tissue in accordance with The Human Tissue Gift Act if the removal of the tissue does not interfere with any investigation or proceeding under any statute in force in Alberta.*

(2) A pituitary gland shall not be removed from the body of a deceased person under subsection (1)(b) if the medical examiner or the person performing the autopsy has reason to believe that the deceased prior to his death objected, or his next of kin or personal representative objects, to the body being so dealt with.

(3) Subject to subsection (2), a pituitary gland may be removed notwithstanding that a consent otherwise required by law has not been given.

*4 Section 32(2) is amended by striking out “, in the form prescribed by the regulations”.*

*5 Section 36 is amended by renumbering clause (a) as (a.1) and adding the following before clause (a.1):*

(a) “chief judge” means the judge designated under *The Provincial Court Act* as the chief judge of The Provincial Court of Alberta,

*6 Section 37 is repealed and the following is substituted:*

**37(1)** The Attorney General

(a) shall upon the recommendation of the Board, and

(b) may in any other case,

order that a judge conduct a public inquiry into a death or 2 or more deaths that arose out of the same circumstances.

(2) An order made under subsection (1) may include a direction that a jury be summoned for the purposes of the public inquiry.

(3) Upon an order being made under subsection (1), the chief judge shall designate a judge to hold a public inquiry into the death in respect of which the order was made.

**4** Section 32(2) presently reads:

*(2) Upon the completion of*

*(a) the investigation, and*

*(b) the public inquiry, if one is held,*

*and upon the receipt of a request from any of the adult next of kin or the personal representative of the deceased, the Chief Medical Examiner shall complete and send a report to the person making the request, in the form prescribed by the regulations.*

**5** Defines the term “chief judge”.

**6** Section 37 presently reads:

*37(1) The Attorney General*

*(a) shall upon the recommendation of the Board, and*

*(b) may in any other case,*

*appoint a judge to conduct a public inquiry into a death or two or more deaths that arose out of the same circumstances.*

*(2) The Attorney General may direct that the judge summon a jury and where such a direction is made the judge shall issue a warrant in the form prescribed by the regulations authorizing the clerk to summon a jury.*

(4) If a direction is made under subsection (2), the judge designated to hold the public inquiry shall issue a warrant directing a clerk to summon a jury.

*7 Section 38(1) and (2) is repealed and the following is substituted:*

**38(1)** Upon being directed under section 37(4) to summon a jury, the clerk shall

- (a) choose 6 persons who are liable to serve as jurors under *The Jury Act*,
- (b) issue a summons to each of those persons, and
- (c) cause a copy of the summons to be served upon each person to whom the summons is issued.

*8 Section 39(2) is amended by adding “or direct a clerk to issue” after “may issue”.*

*9 Section 50(b) is repealed.*

*10 The Provincial Court Act, 1978 is amended by adding the following after section 76:*

**76.1** *The Fatality Inquiries Act is amended in section 36(a) and (a.1) by striking out “The Provincial Court Act” and substituting “The Provincial Court Act, 1978”.*

*11 This Act comes into force on the day upon which it is assented to.*

**7** Section 38(1) and (2) presently reads:

*38(1) Where the Attorney General makes a direction under section 37, subsection (2), the clerk shall choose a jury of six persons who are liable to serve as jurors under The Jury Act.*

*(2) The judge shall issue a summons to the jurors who are chosen by the clerk and a copy of the summons shall be served on each juror.*

**8** Section 39(2) presently reads:

*(2) The judge may issue a summons to any person who in the opinion of the judge may be able to give evidence which relates to the death under investigation.*

**9** Section 50 presently reads in part:

*50 The Lieutenant Governor in Council may make regulations*

*(b) prescribing forms and providing for their use;*

**10** Consequential amendment.