

RESOLUTION 12-05-2018 – AS AMENDED

DIGEST

Coroner: Precludes County Sheriff or District Attorney from serving as Coroner

Amends Government Code sections 24300, 24304, 24304.1, adds section 27459, and deletes section 27469 to preclude a county sheriff or district attorney from also serving as coroner.

STATEMENT OF REASONS

The Problem: Allowing a sheriff or district attorney to serve as the county’s coroner is an invitation to corruption. The coroner’s office must be independent. As has been widely reported, the sheriff of San Joaquin County, who was also the coroner, was accused by the nationally-known chief medical examiner Dr. Bennet Omalu and forensic pathologist Dr. Susan Parson of interfering in autopsies to change the cause of death to benefit law enforcement officers. The San Joaquin District Attorney has called for a separate coroner’s office.

www.recordnet.com/news/20171211/da-calls-for-medical-examiners-office-to-be-separate-from-sheriffs-office. In 2016 the Santa Clara County coroner was separated from the Sheriff, who was accused of maintaining an “interfering and potentially destructive partnership for years.” The independent coroner’s office is consistent with national norms.

www.mercurynews.com/2016/06/14/amid-criticism-santa-clara-county-considering-splitting-coroner-from-sheriffs-oversight/

The Solution: The solution is to require that the coroner and his/her office be separate and independent from the Sheriff. Although the problem is really with the sheriff being the coroner, the law also allows the district attorney to be the coroner. This should not be allowed and this resolution fixes that potential problem.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Government Code sections 24300, 24304, 24304.1, add section 27459 and delete section 27469, and to to read as follows:

- 1 § 24300
- 2 By ordinance the board of supervisors may consolidate the duties of certain of the
- 3 county offices in one or more of these combinations:
- 4 (a) Sheriff and tax collector.
- 5 (b) Auditor and recorder.
- 6 (c) County clerk, auditor, and recorder.
- 7 (d) County clerk and public administrator.
- 8 (e) County clerk and recorder.
- 9 (f) County clerk and auditor.
- 10 (g) Treasurer and tax collector.
- 11 (h) Treasurer and recorder.
- 12 (i) Treasurer and assessor.
- 13 (j) Treasurer and public administrator.

- 14 (k) Public administrator and coroner.
 15 (l) District attorney and public administrator.
 16 ~~(m) District attorney and coroner.~~
 17 ~~(n) Sheriff and coroner.~~
 18 (o) Sheriff and public administrator.
 19 (p) County agricultural commissioner and county sealer of weights and
 20 measures.
 21 (q) Road commissioner and surveyor. A county may create an office entitled
 22 public works director, combining the duties of road commissioner and surveyor and any
 23 other compatible duties not legally required to be performed by another county officer.
 24 (r) County surveyor and director of transportation.
 25 By the ordinance that consolidates the duties of the appointive county offices
 26 described in subdivision (p), notwithstanding Section 2122 and Sections 2181 to 2187,
 27 inclusive, of the Food and Agricultural Code, and Sections 12200 and 12214 of the
 28 Business and Professions Code, the board of supervisors may provide that the first term
 29 only of the newly consolidated office expires when the first of the remaining unexpired
 30 terms of the two unconsolidated offices would have expired. Where a vacancy in either of
 31 the unconsolidated offices exists the term of office of the newly consolidated office shall
 32 be the longer of the remaining unexpired terms.
 33
 34 § 24304
 35 Notwithstanding the provisions of Section 24300, in counties of the 13th to 58th
 36 classes, inclusive, the board of supervisors by ordinance may consolidate the duties of
 37 certain of the county offices in one or more of these combinations:
 38 (a) Sheriff and tax collector.
 39 (b) Auditor and recorder.
 40 (c) County clerk, auditor, and recorder.
 41 (d) County clerk and public administrator.
 42 (e) County clerk and recorder.
 43 (f) County clerk and auditor.
 44 (g) Treasurer and tax collector.
 45 (h) Treasurer and recorder.
 46 (i) Treasurer and assessor.
 47 (j) Treasurer and public administrator.
 48 (k) Public administrator and coroner.
 49 (l) District attorney and public administrator.
 50 ~~(m) District attorney and coroner.~~
 51 ~~(n) Sheriff and coroner.~~
 52 (o) Sheriff and public administrator.
 53 (p) County agricultural commissioner and county sealer of weights and
 54 measures.
 55 (q) County clerk and tax collector.
 56 (r) Treasurer, tax collector, and recorder.
 57 (s) Sheriff, and tax collector, ~~and coroner.~~
 58 (t) Coroner and health officer.
 59 (u) Road commissioner and surveyor. A county may create an office entitled

60 public works director, combining the duties of road commissioner and surveyor and any
61 other compatible duties not legally required to be performed by another county officer.

62 (~~v t~~) Sheriff, ~~coroner~~, and public administrator.

63 (~~w u~~) Treasurer, tax collector, and public administrator.

64 (~~x v~~) County clerk, assessor, and recorder.

65 (~~y w~~) Assessor and recorder.

66 (~~z x~~) Tax collector/county clerk and treasurer.

67

68 § 24304.1

69 Notwithstanding the provisions of Section 24300, in counties of the 11th class, the
70 board of supervisors by ordinance may consolidate the duties of certain of the county
71 offices, in one or both of these combinations:

72 (a) County clerk, assessor, and recorder.

73 (b) Sheriff, ~~coroner~~, and public administrator.

74

75 § 27459

76 (a) Notwithstanding any other law, under no circumstance shall a sheriff or
77 district attorney be appointed as or serve as the coroner of a county. The office of a
78 county coroner or medical examiner shall be separate and independent from the sheriff
79 and the district attorney.

80 (b) In any county in which the sheriff also serves as the coroner, the county shall,
81 within one year of the effective date of this statute, separate the coroner's office from the
82 sheriff and appoint a coroner or examiner who is not the sheriff or the district attorney.

83 (c) A county may in conjunction with another county or counties create a regional
84 coroner or medical examiner's office with jurisdiction within the party counties. A
85 county may contract with another county or counties to all the utilization of that county's
86 or other county's independent coroner or medical examiner's office by all party
87 counties.

88

89 ~~§ 27469~~

90 ~~In any action or proceeding in which the sheriff is a party, the coroner shall discharge the~~
91 ~~duties of sheriff.~~

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Los Angeles County Bar Association

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

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RESPONSIBLE FLOOR DELEGATE: Mark Harvis

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RESOLUTIONS COMMITTEE RECOMMENDATION
APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Government Code sections 24300, 24304, 24304.1, adds section 27459, and deletes section 27469 to preclude a county sheriff or district attorney from also serving as coroner. This resolution should be approved in principle because it will allow coroners in each county to work independently and be free from the influence of a sheriff or district attorney who may have different objectives.

A similar proposal is now before the Legislature (Sen. Bill No.1303 (2017-2018 Reg. Sess.)), introduced by Senator Pan and Senator Galgiani on February 16, 2018. That bill would require any county with a population of 500,000 or greater to replace a coroner or sheriff's coroner's office with an office of the medical examiner without a public vote or election operating independently from any other county agency or official. The chief medical officer would be appointed by the board of supervisors by the county or by the county executive officer. The proposed resolution, as well as Sen. Bill 1303, are designed to address recent mistrust against sheriff-coroners who perform autopsies related to police shootings. Recently Dr. Bennet Omalu, the chief forensic pathologist of San Joaquin County resigned, accusing the Sheriff and Coroner of trying to change autopsy findings.

While there will be an obvious benefit to the public from non-biased coroners outside of the management of a county sheriff or district attorney, there will be a financial burden to small rural counties to maintain an independent coroner if they must form and manage alone. As suggested by the San Diego County Bar Association in a possible proposed amendment, a solution could be to allow counties the option of forming a regional medical examiner's office with jurisdiction across multiple counties or the option of contracting with adjacent counties that have an independent medical examiner or coroner's office.

COUNTERARGUMENTS AND STATE BAR SECTION COMMENTS

SAN DIEGO COUNTY BAR ASSOCIATION

The SDCBA Delegation would support Resolution 12-05-2018 if amended. The delegation agrees that an independent medical examiner or coroner, separate from law enforcement agencies, aids in transparency and avoiding appearances of potential cover-ups in relation to officer involved deaths. However, the delegation is concerned that small counties may not be able to afford the costs associated with forming an independent medical examiner or coroner's office. Accordingly, the Delegation would support this Resolution if amended to allow counties the option of forming a regional medical examiner's office with jurisdiction across multiple counties or the option of contracting with adjacent counties that have an independent medical examiner or coroner's office.