
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: AB 1608 **Hearing Date:** June 28, 2022
Author: Gipson
Version: April 7, 2022
Urgency: No **Fiscal:** No
Consultant: AB

Subject: *County officers: consolidation of offices*

HISTORY

Source: Author

Prior Legislation: SB 1303 (Pan, 2018), vetoed by the Governor
SB 1189 (Pan), Ch. 787, Stats. of 2016

Support: ACLU California Action; Alameda County Families Advocating for the Seriously Mentally Ill; AFSCME; Cal Aware; California News Publishers Association; California Public Defenders Association; Democrats of Rossmore; Ella Baker Center for Human Rights; Human Impact Partners; Initiate Justice; Los Angeles County Board of Supervisors; Los Angeles County District Attorney's Office; National Association of Social Workers, California Chapter; National Press Photographers Association; NextGen California; Physicians for Human Rights; Radio Television Digital News Association; Secure Justice; Society of Professional Journalists, Greater Los Angeles Chapter; The Miles Hall Foundation; Union of American Physicians and Dentists

Opposition: California State Association of Counties (CSAC); California State Coroner's Association; California State Sheriffs' Association; California Statewide Law Enforcement Association; County of Butte; County of Colusa; County of Kern; Peace Officers Research Association of California (PORAC); Solano County Board of Supervisors

Assembly Floor Vote: 44 - 20

This analysis reflects author's amendments to be offered in Committee

PURPOSE

The purpose of this bill is to remove the authority of counties to consolidate the offices of sheriff and coroner, and mandate the separation of existing sheriff-coroner offices, as specified.

Existing law organizes the 58 counties of the State into classes based upon their population, for purposes of determining the compensation of county officers. (Gov. Code, §§ 28020-28079.)

Existing law authorizes the county boards of supervisors to consolidate by ordinance the duties of various county offices into one or more combinations, including the sheriff and the coroner. (Gov. Code § 24300.)

Existing law authorizes certain classifications of counties to additionally combine the duties of the Sheriff, tax collector, and coroner. (Gov. Code, §§ 24304 & 24304.1.)

Existing law requires coroners to determine the manner, circumstances and cause of death in the following circumstances:

- Violent, sudden or unusual deaths;
- Unattended deaths;
- When the deceased was not attended by a physician, or registered nurse who is part of a hospice care interdisciplinary team, in the 20 days before death;
- When the death is related to known or suspected self-induced or criminal abortion;
- Known or suspected homicide, suicide or accidental poisoning;
- Deaths suspected as a result of an accident or injury either old or recent;
- Drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or sudden infant death syndrome;
- Deaths in whole or in part occasioned by criminal means;
- Deaths associated with a known or alleged rape or crime against nature;
- Deaths in prison or while under sentence;
- Deaths known or suspected as due to contagious disease and constituting a public hazard;
- Deaths from occupational diseases or occupational hazards;
- Deaths of patients in state mental hospitals operated by the State Department of State Hospitals;
- Deaths of patients in state hospitals serving the developmentally disabled operated by the State Department of Development Services;
- Deaths where a reasonable ground exists to suspect the death was caused by the criminal act of another; and,
- Deaths reported for inquiry by physicians and other persons having knowledge of the death. (Gov. Code, § 27491.)

Existing law requires the coroner or a deputy to sign the certificate of death when they perform a mandatory inquiry. (Gov. Code, § 27491, subd. (a).)

Existing law allows the coroner or medical examiner discretion when determining the extent of the inquiry required to determine the manner, circumstances and cause of death. (Gov. Code, § 27491, subd. (b).)

Existing law requires the coroner or medical examiner to conduct an autopsy at the request of the surviving spouse or other specified persons when an autopsy has not already been performed. (Gov. Code, § 27520, subd. (a).)

Existing law allows the coroner or medical examiner discretion to conduct an autopsy at the request of the surviving spouse or other specified persons when an autopsy has already been performed. (Gov. Code, § 27520, subd. (b).)

This bill eliminates the authority of a county board of supervisors to consolidate the duties of the sheriff with the duties of the coroner.

This bill specifies that if the offices of sheriff and coroner were consolidated before January 1, 2023, the board of supervisors shall separate those offices.

This bill provides that for counties with consolidated sheriff-coroners as of January 1, 2023, the separation shall become effective upon the conclusion of the term of the person elected or appointed, on or before January 1, 2023, to the consolidated offices of the sheriff and coroner.

COMMENTS

1. Need for This Bill

According to the Author:

California is one of only three states that still allows counties to combine the offices of coroner and sheriff. Current state law does not require a sheriff to have any medical background or certification to assume the duties of a coroner and as a result has caused a discrepancy in whether a medical diagnosis is valid when there is an officer-related death. Thus, this bill is heavily supported by the medical community and will put California at the forefront and in line with the rest of the states that have already advanced this policy.

AB 1608 stems from two bills, AB 1196 (Gipson) and AB 490 (Gipson), which Governor Newsom signed in light of the tragic deaths of George Floyd and Angelo Quinto. As a follow-up to these efforts, AB 1608 will serve as a building block to create complete transparency in determining the cause of death of an individual. Specifically, this bill would separate the duties of the coroner from the duties of the sheriff, strengthening the need for a more transparent and just medical examination process. AB 1608 will provide families with peace of mind that these investigations and processes are done righteously and fairly. This legislation sets a clear pathway in creating a system that prioritizes objectivity, transparency, and accountability – and most importantly justice.

2. Consolidated Sheriff-Coroners, Recent Controversy and Effect of This Bill

County sheriffs in California have three primary duties: keeping the peace (involving patrol and arrest), attending the courts (including providing courthouse security), and operating the county jails. County coroners are charged with various responsibilities related to deaths that occur within the county, including investigating and verifying causes of death, transporting and storing bodies, signing death certificates, and maintaining related records and personal property.¹ While the sheriff is a constitutionally elected official in all counties, some counties have elected coroners and others have appointed coroners, or Medical Examiners who perform the duties of a coroner. Under existing law, counties have the authority to consolidate the offices of sheriff and coroner, and as of 2022, 48 counties have done so. This consolidation usually occurs for two reasons: (1) the maintenance and function of two separate officers is more expensive, especially for smaller counties, and (2) many of the deaths that a coroner investigates have criminal or other law enforcement components.

Critics of consolidated sheriff-coroners argue that the duality of these offices constitutes an inherent conflict of interest. For instance, in consolidated counties, even if a forensic pathologist or medical examiner determines that someone was beaten to death, the sheriff-coroner has the authority to officially declare it an accident. Such an incident recently occurred in San Joaquin County, where a lawsuit was filed in 2018 alleging the sheriff's department changed an autopsy report at the center of a police excessive-force case. The year before in that same county, two pathologists resigned from the office and alleged that the sheriff changed the manner of death in autopsy reports without their knowledge. The pathologists called for a split of the offices so that the independence of the coroner could be guaranteed, and the county's board of supervisors ultimately voted to replace the coroner's office with a medical examiner.²

More recently, in December 2020, 30-year-old Navy veteran and Antioch resident Angelo Quinto died in police custody while suffering a mental health episode. Quinto's family alleged that on the night he was taken into custody, officers knelt on Quinto's neck for nearly 5 minutes until he became unresponsive, a claim disputed by police. Quinto died in the hospital 3 days later, and the Contra Costa County Sheriff-Coroner's Office ruled that the death was a result of "excited delirium."³ This is a particularly controversial diagnosis, as the term is generally attributed to sudden unexplained deaths of individuals while in police custody, and critics argue it can be used as a justification for excessive use of force by police.⁴

This bill seeks to address the apparent conflict in consolidated sheriff-coroner offices by removing the authority of all counties to consolidate those offices, and requiring counties that

¹ For a more detailed breakdown of sheriff and coroner duties, see <https://www.counties.org/county-office/sheriff-coroner>

² <https://sacramento.cbslocal.com/2017/12/08/pathologists-who-resigned-call-for-san-joaquin-county-sheriff-coroner-split/>; <https://www.kqed.org/news/11664465/san-joaquin-county-sheriff-stripped-of-role-in-death-investigations>

³ <https://www.mercurynews.com/2021/08/20/death-of-angelo-quinto-after-struggle-with-cops-blamed-on-excited-delirium-a-controversial-diagnosis-the-ama-says-is-used-to-shield-police-violence/>

⁴ For more information on the "excited delirium" diagnosis, see Strommer, Ellen, et. al. "The role of restraint in fatal excited delirium: a research synthesis and pooled analysis." *Forensic Science, Medicine and Pathology*. Published 22 August 2020. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7669776/>

currently have consolidated sheriff-coroners to separate by the end of the elected sheriff-coroners current term.

3. Recent Legislation and Other Possible Reform

Two bills carried by Senator Pan over the past several years have attempted to address issues regarding the role of coroners and sheriff-coroners. AB 1189 (Pan, Ch. 787, Stats. of 2016) required that a forensic autopsy must be conducted by a licensed physician, and, for cases where an individual dies due to law enforcement activity, prohibited law enforcement personnel directly involved with the care and custody of that individual from being involved with the postmortem examination. Two years later, SB 1303 (Pan, 2018) would have required non-charter counties with a population greater than 500,000 to replace the office or the coroner or sheriff-coroner with an office of the medical examiner. Governor Brown vetoed that measure, writing in his veto message that “Counties have several options when delivering coroner services to the public. This decision is best left to the discretion of local elected officials who are in the best position to determine how their county offices are organized.”

Recent events, including those described above, have prompted a re-examination of this deference to local governments. This bill represents one approach to reforming county coroners and sheriff coroners, but some may argue that it does not go far enough. A recent Los Angeles Times editorial highlights the various issues that may persist even with this bill’s passage:

Counties would still be able to choose whether their boards of supervisors should appoint coroners or their voters should elect them. That’s also a problem. Determining cause and manner of death is not a political task, and the job should not go to the person who could raise the most money and run the most appealing campaign. Although most states don’t combine their sheriffs and their coroners, many nevertheless politicize their coroner offices with elections or partisan appointments, and that matters far beyond the situation of deaths involving officers.

As we have seen during the COVID-19 pandemic, disease too can be politically charged. Coroners in some states have reportedly refused to list COVID-19 as cause of death in reports and on death certificates if there were alternative or accompanying causes such as chronic obstructive pulmonary disease. That bolsters a political and decidedly non-scientific narrative about COVID-19 and underreports the true impact of the pandemic on the community.⁵

The Author and Committee may wish to consider additional or alternative reforms. First, under current law, coroners are not required to have any medical or forensic certifications – it may be worthwhile to require coroners and sheriff-coroners to have these qualifications. Second, the political dimension of a coroner’s conflict of interest may be mitigated to some extent by barring the election of coroners and instead requiring their appointment by the board of supervisors. Third, given the local government issues implicated by the bill (see the analysis prepared by the Committee on Governance and Finance for more), another option may be to allow certain smaller counties to remain consolidated and require that inquests into officer-involved deaths or deaths in custody be contracted out to an independent medical examiner. Finally, as this Legislature has previously approved a requirement that counties abolish the office of the coroner

⁵ “Editorial: Sheriffs shouldn’t be coroners too. Split the job.” *Los Angeles Times*. 14 April 2022. <https://www.latimes.com/opinion/story/2022-04-14/coroner-sheriff-split>

and instead create an office of the medical examiner, such a proposal may be worthy of reconsideration in the wake of recent events.

4. Amendments to be Taken in This Committee

This bill was heard in Senate Governance and Finance on June 22. For timing reasons, amendments agreed upon in that committee will be crossed by this committee. The amendments require the separation of consolidated sheriff-coroner offices by the expiration of the current sheriff-coroners elected term. These amendments are reflected in this analysis. While the bill requires counties to separate their sheriff and coroner offices, it does not clearly state whether counties that have adopted a charter that provides for a consolidated sheriff-coroner office must also separate their offices. This issue is not within this committee's jurisdiction, but the Author may wish to address this issue moving forward to ensure the intended application of the bill.

The operative language of the amendment is as follows:

Section 24309 is added to the Government Code, to read:

24309. Notwithstanding any other law, if the offices of sheriff and coroner were consolidated pursuant to this chapter before January 1, 2023, the board of supervisors shall separate those offices. The separation shall become effective upon the conclusion of the term of the person elected or appointed, on or before January 1, 2023, to the consolidated offices of sheriff and coroner.

5. Argument in Support

According to ACLU California Action:

These are only a few of the examples throughout the state that highlight conflicts of interest with the coroner-sheriff model when a sheriff has been accused of abusing power in death investigations. AB 1608 ensures that all local death investigations are conducted by an objective and independent medical examiner that is separate from the sheriff's office.

All 58 counties in California have a sheriff's department, and all but ten counties place the functions of the coroner or medical examiner's office under the sheriff, although sheriffs are not required to have any medical background or certification to assume the duties of a coroner. California is one of only three states that allow the offices of the coroner to be combined with sheriffs, with the inherent potential for conflicts of interest, particularly with respect to investigating causes of death at the hands of law enforcement. Counties like Los Angeles, San Diego, and San Francisco have already separated the duties of the coroner from the sheriff. Their coroners are independent medical examiners, who are required to be licensed physicians and surgeons duly qualified as a specialist in pathology.

Californians in all counties, regardless of their population size or budget, deserve access to a fair, unbiased, and transparent process. AB 1608 would not prevent counties from contracting to other coroner or medical examiner's offices. Some counties like Inyo, with a population of less than 18,000 people and an area of 10,000 square miles, already have an independent coroner's office. Other counties like

Alpine and Lassen contract out to Washoe County, Nevada, which operates an independent regional medical examiner's office.

A consistent statewide policy towards independent coroner's offices would help to ensure that medical examinations and investigations of sudden, violent, or unexplained/suspicious deaths are conducted objectively, with integrity.

6. Argument in Opposition

According to the California State Sheriff's Association;

The current sheriff-coroner approach utilized by choice by a vast majority of California's counties enjoys the benefit of operational and budgetary efficiency. Separating these offices will remove investigative efficiencies and drastically increase county costs unnecessarily by requiring 48 counties to stand up separate coroner offices. From a governance perspective, this bill is heavy-handed and disregards local control. Existing law already permits counties to pursue multiple models of county office consolidation or separation. This is a decision best left to the sound discretion of local officials who have budget authority and relevant local experience.

This bill includes no funding for counties to separate the offices of coroner and sheriff but demands it be done without regard to the massive costs this will create. Even if funding were provided, this bill disregards local control and the decisions made over the years by the vast majority of the state's counties.

Counties have adopted procedures to address perceived conflicts with how death investigations are undertaken. In order to apparently further engage in this area, AB 1608 imposes a resource-intensive seismic shift in how local governments choose to organize their functions.

-- END --