

## Department of Planning and Budget 2018 Fiscal Impact Statement

**1. Bill Number:** HB 379

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:**        Habeeb

**3. Committee:** Health, Welfare and Institutions

**4. Title:**            Office of Chief Medical Examiner; collection of fees.

**5. Summary:** Prohibits the Office of the Chief Medical Examiner (the Office) from charging a fee for any services provided in connection with death investigations unless such fees are expressly authorized by statute.

**6. Budget Amendment Necessary:**

**7. Fiscal Impact Estimates:**

**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2019	1,946,598	13	General
2020	1,946,598	13	General
2021	1,946,598	13	General
2022	1,946,598	13	General

**7b. Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2019	(200,000)	Nongeneral
2020	(200,000)	Nongeneral
2021	(200,000)	Nongeneral
2022	(200,000)	Nongeneral

**8. Fiscal Implications:** This bill would have a fiscal impact on the Commonwealth. The Office of the Chief Medical Examiner (OCME) currently charges a fee for expert testimony by the Chief or Assistant Chief Medical Examiner at a deposition or trial in civil litigation matters. However, the OCME does not charge a fee for criminal litigations because the Commonwealth has a vested interest in criminal litigations unlike in civil litigation matters. Therefore, the OCME only collects fees for services being performed outside of the vested interest of the Commonwealth.

Additionally, attorneys are made aware of the fees associated with having the Chief or Assistant Chief Medical Examiner participate in their civil matter as an expert witness. Attorneys are also made aware of § 8.01-390.2 of the Code of Virginia that specifies that

certified reports by medical examiners can be received as evidence in civil matters. Some attorneys are not aware of this law, but after being informed they elect not to use the medical examiner and many also elect to not use the medical examiner after learning of the fees.

As a result, the Department of Health (VDH) believes that more attorneys will utilize the medical examiner's services if the fee is eliminated for testimony in a civil matter. In 2016, the OCME investigated 6,868 deaths, of which approximately 4,310 had the potential for civil litigation. Of the 4,310 cases that have the potential for civil litigation, the OCME expects that a third (1,436 cases) will actually require the participation of a medical examiner if the fee is abolished. As a result, the OCME will need an addition 13 positions to address the increase in workload.

The 13 positions are as follows. On average, it takes about eight hours for a medical examiner to prepare, travel to and from court, and testify in a matter. This will result in an additional workload of 11,488 hours (8-hours x 1436 cases), which would require five additional Assistant Chief Medical Examiners (11,488 hours / 2080 work hours/year) to address. Also to support these positions, VDH will need to hire an additional four autopsy technicians, two medicolegal death investigators, and two administrative staff members. Current OCME staffing levels will be unable to support this increase due to a 70 percent increase in caseload, which has been attributed to the opioid crisis, coupled with the National Association of Medical Examiners certification standard that 90 percent of all death investigations must be completed within 90 days.

To hire five Assistant Chief Medical Examiners, four autopsy technicians, two medicolegal death investigators, and two administrative staff members would require an additional \$1,746,597.78 NGF.

- Total Compensation for:
  - Assistant Chief Medical Examiner (5):  $\$242,780.1 \times 5 = \$1,213,900$
  - Autopsy Technician (4):  $\$63,199.34 \times 4 = \$252,797.36$
  - Medicolegal Death Investigator (2):  $\$77,423.61 \times 2 = \$154,847.22$
  - Administrative Staff (2):  $\$62,526.60 \times 2 = \$125,053.20$

Additionally, in 2015, as part of budget savings strategies, the OCME's budget was reduced by \$380,000 NGF. One of the savings strategies required the OCME to fund an Assistant Chief Medical Examiner position, at a rate of \$200,000 with revenue funds. The OCME generates revenue by charging for Assistant Chief Medical Examiners to testify in civil litigation matters as experts. These fees are also used to fund this position. Therefore, if the OCME cannot collect these fees, the cost of this position would require \$200,000 in general fund each year.

**9. Specific Agency or Political Subdivisions Affected:** Virginia Department of Health.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.