

Date of Hearing: April 6, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
AB 1608 (Gipson and Akilah Weber) – As Introduced January 4, 2022

SUBJECT: County officers: consolidation of offices.

SUMMARY: Removes the authority of a county board of supervisors to combine the duties of the sheriff with the duties of the coroner. Specifically, **this bill:**

- 1) Deletes “sheriff and coroner” from the duties of county offices that a county board of supervisors may consolidate by ordinance.
- 2) Makes technical and conforming changes.

EXISTING LAW:

- 1) Establishes the number, appointment, and election procedures for county officials, including the board of supervisors.
- 2) Requires, under the California Constitution, all counties to elect a sheriff, district attorney, assessor, and board of supervisors.
- 3) Establishes in statute additional offices, including the sheriff and coroner.
- 4) Tasks the coroner with determining the circumstances, cause, and manner of certain deaths, such as deaths that are violent, sudden, or unusual, or potentially stem from criminal activity.
- 5) Authorizes the board of supervisors to enact an ordinance to consolidate the sheriff and coroner into a single elected office or abolish the office of coroner and instead appoint a medical examiner to carry out the coroner's duties.
- 6) Requires a medical examiner to be a licensed physician and surgeon specializing in pathology.
- 7) Requires any forensic autopsy to determine the cause of death to be done by a medical professional.
- 8) Prohibits, where an individual dies as a result of law enforcement activity, law enforcement involved in the death from entering the autopsy suite or having any involvement in the examination.
- 9) Allows counties to adopt charters to specify their own governance structure.

FISCAL EFFECT: None.

COMMENTS:

- 1) **Bill Summary and Author's Statement.** This bill eliminates the authority of a county board of supervisors to consolidate the duties of the coroner with the duties of the sheriff.

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."

This bill is sponsored by ACLU California Action, the California Faculty Association, the California Medical Association, the Justice for Angelo Quinto! Justice for All! Coalition, and Secure Justice.

- 2) **Duties of Sheriff and Coroner.** The sheriff performs the duties of the coroner in 48 of the state's 58 counties. The board of supervisors in a county can enact an ordinance to consolidate the sheriff and coroner into a single elected office. The consolidation 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. This dual position investigates and determines the circumstance, manner, and cause of all violent, sudden, or unusual deaths. While the circumstances and cause of death can vary widely, there are only five manners of death: natural, accidental, homicide, suicide, or undetermined.

The responsibility of the coroner under California state law is to investigate all unnatural deaths, deaths where the medical doctor is unable to state a cause of death as well as cases where the deceased person has not seen a doctor twenty days prior to death. The coroner is tasked with identifying the deceased; determining the place, date, and time of death; and the cause and classification of death. Coroners also interview family and other witnesses, collect physical evidence, and safeguard personal property found at the scene. This role can be combined with the role of sheriff, whose primary responsibilities, according to the California State Association of Counties, involve keeping the peace (e.g., make arrests, respond to calls); attending the courts (e.g., superior court bailiffs); and operating the county jail.

Whether combined or separate offices, the sheriff and coroner must both be elected unless voters in that county say otherwise. However, the board can, by ordinance, abolish the office of coroner and instead appoint a medical examiner to carry out the coroner's duties.

Regardless of whether a county has a medical examiner, separate coroner, or sheriff-coroner, a medical professional always performs the forensic autopsy to determine the cause of death.

- 3) **Angelo Quinto.** According to various news reports, in December 2020, Angelo Quinto died in police custody while suffering a mental health episode. Quinto's family alleged that a responding officer knelt on Angelo's neck for nearly five minutes while another officer restrained his legs, causing Angelo to lose consciousness. He later died in the hospital. The Contra Costa County's Coroner Office, which is combined with its Sheriff's office, ruled the cause of Angelo's death was a result of "excited delirium." News sources and the Oregon Health & Science University School of Medicine have found that cases of excited delirium rarely occur outside of police involvement. The author noted that Quinto's death inspired AB 490 (Gipson) to ban law enforcement in California from using chokeholds and restraints that lead to potential asphyxiation, and also restarted conversations about the separation of coroner and sheriff's offices to account for potential conflicts of interest.
- 4) **San Joaquin County Sheriff Controversy.** In December 2017, the chief medical examiner in San Joaquin County resigned after documenting numerous incidents of alleged interference by the Sheriff in their death investigations, including changing the manner of death from "homicide" to "accident" in three cases of law enforcement-involved deaths. Medical professionals and others argue that the consolidated sheriff-coroner system presents an inherent conflict. In order to address this potential conflict, on April 24, 2018, the San Joaquin County Board of Supervisors voted to create an independent Office of the Medical Examiner.
- 5) **Policy Considerations.** This bill removes existing law authorizing county boards of supervisors to consolidate the duties of sheriffs and coroners. However, it does not specifically *require* counties that have consolidated offices to separate those offices. It appears clear that this bill would prohibit counties from consolidating these offices in the future, once the bill goes into effect. It is not clear from the current language how this bill would affect sheriff/coroner offices that are consolidated already or are consolidated before its effective date. The author may wish to clarify this moving forward.
- 6) **Committee Amendment.** According to the California Association of County Treasurers and Tax Collectors, who oppose the bill unless amended, "County tax collectors typically have a professional background in finance or accounting. Occasionally, a tax collector may also be an attorney. However, in no circumstance in the recollection of any current county tax collector has there been a tax collector that is also trained in the field of autopsies. Furthermore, it seems unlikely a physician trained in the specific field of examining dead bodies to determine the cause of death would also be qualified to manage a multi-billion dollar county tax roll. Authorizing the merging of these two offices in statute seems to lack any rationale and is unlikely to achieve any governmental efficiencies given the vastly different skill sets required for each field. For these reasons, CACTTC opposes AB 1608 unless amended to remove line 25 on page 3 of the measure."

The Committee may wish to amend this bill as specified above to address this concern.

- 7) **Arguments in Support.** The American Civil Liberties Union California Action, co-sponsor of this measure, states "While Angelo's tragic death has prompted greater scrutiny of one particular diagnosis, it has more importantly also highlighted the need to eliminate the underlying

potential for conflicts of interest in law enforcement...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...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...

“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.”

- 8) **Arguments in Opposition.** The California Statewide Law Enforcement Association, opposed to this bill, states, “While we certainly understand the author's intention to ensure fair, complete investigations are conducted relating to the medical examination process, we believe it is best that coroners are left under the jurisdiction of law enforcement. Sheriff-Coroners perform essential duties such as conducting autopsies, transporting, and removing bodies, verifying cause of death, signing death certificates, and appearing at scenes of specified unattended deaths. Coroners play an integral role in the continuity of law enforcement's ability to serve citizens throughout California.”

The Rural County Representatives of California (RCRC), with an “oppose, unless amended” position, writes, “A one-size-fits-all approach for 48 counties to address where the Coroner duties reside does not recognize the differences between rural, suburban, and urban counties and their respective resources. RCRC respectfully requests amendments to allow smaller counties with a population of less than 500,000 to continue a consolidated model. This approach is similar to Senator Pan's SB 1303 (2018) thresholds. Further, we request amendments to allow the County Board of Supervisors to determine, by ordinance, if the Coroner should be elected or appointed. This flexibility recognizes that county organizational structures vary, and local discretion is needed to set up effective service models, including consolidating the functions of different county departments. Lastly, the proposed amendments include an effective date of July 1, 2024, to provide sufficient time for counties to transition services.”

- 9) **Previous Legislation.** SB 1303 (Pan) of 2018 would have replaced the county office of the coroner or the sheriff-coroner's office with an office of medical examiner in counties that have not adopted a charter and have 500,000 or more residents, or required these counties to adopt a policy requiring referral of death investigations to a county with a medical examiner's office for any case representing a potential conflict of interest. SB 1303 was vetoed with the following message:

“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.”

SB 1189 (Pan), Chapter 787, Statutes of 2016, required a forensic autopsy to be conducted only by a licensed physician or surgeon, and placed specified restrictions on the actions of law enforcement personnel in a postmortem examination or autopsy of an individual who dies due to the involvement of law enforcement activity, among other provisions.

10) **Double-Referral.** This bill is double-referred to the Public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action [CO-SPONSOR]
California Faculty Association [CO-SPONSOR]
California Medical Association [CO-SPONSOR]
Justice for Angelo Quinto! Justice for All! Coalition [CO-SPONSOR]
Secure Justice [CO-SPONSOR]
The Miles Hall Foundation [CO-SPONSOR]
Alliance San Diego
American Federation of State, County and Municipal Employees, AFL-CIO
American Friends Service Committee
Arab Resource and Organizing Center
Asian Pacific American Labor Alliance, AFL-CIO
Asian Prisoner Support Committee
Borderlands for Equity
California Coalition for Women Prisoners
California Families United 4 Justice
California Immigrant Policy Center
California News Publishers Association
California Public Defenders Association
Californians for Safety and Justice
Chispa, a Project of Tides Advocacy
Coalition for Police Accountability
Communities United for Restorative Youth Justice
Community Legal Services in East Palo Alto
Conference of California Bar Associations
Courage California
Ella Baker Center for Human Rights
Faith in Action East Bay
Filipino Community Center
Human Impact Partners
ICE Out of Marin
Immigrant Defense Advocates
Immigrant Legal Resource Center
Indivisible Sacramento
Initiate Justice
Interfaith Movement for Human Integrity
Kehilla Community Synagogue
Legal Services for Prisoners with Children
Mighty Vote

NextGen California
Oakland Privacy
San Mateo County Participatory Defense
Silicon Valley De-Bug
Stop the Musick Coalition
Young Women's Freedom Center

Oppose

California State Association of Counties
California State Coroners' Association
California State Sheriffs' Association
California Statewide Law Enforcement Association
Riverside County Sheriff's Department
Riverside Sheriffs' Association

Oppose Unless Amended

California Association of County Treasurers & Tax Collectors
Rural County Representatives of California

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