

“Puerto Rico Institute of Forensic Sciences Act”

Act No. 13 of July 1985, as amended

(Contains amendments incorporated by:

Act No. 72 of August 12, 1994

Act No. 192 of August 12, 1995

Act No. 15 of January 1, 1998

Act No. 52 of July 1, 1998

Act No. 88 of March 3, 1999

Act No. 134 of July 26, 2006

Act No. 251 of November 30, 2006

Act No. 94 of September 10, 2009

Act No. 183 of December 17, 2009)

(Amendments non-incorporated:

Act No. 200 of December 29, 2009)

To create the Puerto Rico Institute of Forensic Sciences; define its duties and functions; appropriate the resources needed for its constitution and operation; establish penalties; and repeal Act No. 5 of November 21, 1978, as amended.

STATEMENT OF MOTIVES

The growth of criminality seen in the past years, frequently characterized by alarming acts of violence, has been a source of deep consternation to Puerto Rican society. With the hope of attaining physical safety and spiritual peace in their homes, at work and in their daily living, our society has clamored unceasingly for the government authorities to intervene so that they can effectively perform their responsibility of giving direction to the entire process of investigating and seeing that justice is done.

In spite of the critical state of insecurity in which our society must live as a result of the rampant criminality, it has been consistent in its interest that the process of exacting law and order be imparted in a manner that is attuned to its moral values and its respect of the dignity of human beings. It has reacted collectively to clearly establish its desire that in the government process of exacting obedience of the laws, each citizen who must face the constituted authority be granted his rights to life and liberty consecrated in our system of government.

Joined to the evil of high criminality, our society has had to suffer the anguish of seeing how some of the public institutions of the country have become immersed in their own acts of crude violence, the inequities of a distorted process of investigation, and the convenient concealment of data, facts, and official acts. This undeniable reality has

propitiated a deep distrust of the judicial system and the public bodies charged with investigating crime and enforcing the laws.

In order to reestablish the citizens' faith in its institutions of law and order, it is important that the entities and mechanisms that promote the objective investigation of criminal activity and the civilized and fair prosecution of those who transgress the laws be established as soon as possible.

The Puerto Rico Institute of Forensic Sciences, the creation of which is hereby directed for the scientific investigation of criminal behavior, will play an important role in the open-minded administration of justice. It shall investigate the causes, ways and circumstances of the deaths; it shall evaluate and analyze the evidence uncovered in any other crime that comes to its attention, preserving and presenting the evidence derived from the investigation to exonerate, or to establish beyond a reasonable doubt the defendant's guilt.

In order for it to comply with the basic purpose of safeguarding the investigative objectivity, the Institute of Forensic Sciences shall have to operate with fiscal and administrative autonomy. Therefore, its funds shall be appropriated in the General Expense Budget of the Commonwealth of Puerto Rico, and its administrative functions shall be directed by a Board in which the sectors most involved in the administration of justice will be broadly represented.

Pursuant to this act, the human resources, equipment, facilities and technology which, up to the present, were found separately in the Institute of Forensic Medicine, the Scientific Laboratory of the Puerto Rico Police and the Technical Services Division of the Special Investigations Bureau (SIB), shall be joined together for one single purpose.

The Institute of Forensic Sciences shall become an integral part of Puerto Rico's criminal justice system, operating as an independent agency in the interest of truth and justice for the collective benefit of our society.

Be it enacted by the Legislature of Puerto Rico:

Section . — Short Title. (34 L.P.R.A. § 3001)

This act shall be known as the "Puerto Rico Institute of Forensic Sciences Act".

Section 2. — Definitions. (34 L.P.R.A. § 3002)

For the purposes of this act, the following terms shall have the meaning stated hereinbelow:

- (a) *Institute.* — The Puerto Rico Institute of Forensic Sciences.
- (b) *Board.* — Board of Directors of the Puerto Rico Institute of Forensic Sciences.
- (c) *Director.* — Director of the Puerto Rico Institute of Forensic Sciences.
- (d) *Forensic scientist.* — Any person who has received a specialized higher academic degree in the scientific analysis of evidence that is used in criminal investigation and the administration of justice, who is versed in the study and application of any of the disciplines comprised under the forensic sciences.

Section 3. — Creation. (34 L.P.R.A. § 3003)

The Puerto Rico Institute of Forensic Sciences is hereby created as an autonomous entity.

Section 4. — Board of Directors. (34 L.P.R.A. § 3004)

The Board of Directors created hereunder shall have the responsibility of establishing the administrative and operational policy of the Puerto Rico Institute of Forensic Sciences. It shall be composed of the Secretary of Justice, who shall preside [over] it, the Commissioner of Security and Public Protection, the Dean of Medical Sciences, the Courts Administrator, the Secretary of Health, and three (3) additional members appointed by the Governor with the advice and consent of the Senate of Puerto Rico. However, when the Commissioner of Security and Public Protection and the Superintendent are not the same person, the Superintendent should be appointed as an additional member of the Board, given the close working relationship between the Police and the Institute of Forensic Sciences. The three (3) members shall be persons of recognized standing, one of whom shall be an attorney, the other a physician, and the third shall be a private citizen who shall represent the public interest. The Commissioner of Security and Public Protection, the Dean of Medical Sciences, the Courts Administrator and the Secretary of Health may designate an official of the highest level to represent them at the meetings of the Board of Directors. That official must have the same decision-making authority as the Head of the Agency or Secretary who has designated him/her in writing. Furthermore, that designated official shall be the same person who attends all meetings for purposes of giving continuity to the matters dealt with by this Board.

Without impairing his prerogative and power to make appointments, the Governor may select the Director who is a lawyer and the physician from three (3) candidates who shall be submitted by the Puerto Rico Bar Association, and three (3) who shall be submitted by Puerto Rico Medical Association. These last three (3) members shall each serve for a term of four (4) years, and shall hold office until their successors are appointed and take office. Any vacancy that occurs on the Board shall be filled by appointments extended for the unexpired term of office of the member who caused the vacancy. The Board members shall perform their duties without any remuneration therefor, but the Institute shall reimburse them for any necessary expenses incurred in the performance of their duties. The Director of the Institute shall participate in the meetings of the Board of Directors and shall have a voice, except when the Board meets in Executive Session.

Section 5. — Institute of Forensic Sciences, Functions. (34 L.P.R.A. § 3005)

The Puerto Rico Institute of Forensic Sciences shall have the following functions:

- (a) Investigate with the purpose of determining the cause, manner and circumstances of death of any person whose demise is produced under any of the circumstances specified in this Act.
- (b) Shall perform the necessary examinations in the area of the forensic sciences and criminology, and the investigation and handling of any criminal case in which its services are required, in close collaboration with the Department of Justice's Office of Criminal Investigation and Prosecution, the Puerto Rico Police, or any other pertinent agency of bureau, as well as when required to do so by the courts of Puerto Rico.

- (c) Contract the professional services needed to execute its charge without being subject to the personnel classification and remuneration scales.
- (d) Stimulate the development of forensic pathologists, forensic scientists and criminologists. To such purposes, the Institute shall develop a teaching program in coordination with the Medical Sciences Campus, in medical-scientific and criminological subjects at the graduate as well as the post graduate level. The persons who pass these programs satisfactorily shall receive the corresponding university degrees and diplomas. It shall also create a scholarship program for advanced studies in professional and educational technical institutions within and without Puerto Rico. It shall also develop a personnel training program for the different investigating units of the agencies.
- (e) Carry out scientific and technological investigations in the fields of forensic sciences.
- (f) Give advice to all the instrumentalities of the Commonwealth of Puerto Rico, whenever it is necessary, on the matters under its jurisdiction.
- (g) Collaborate with all the pertinent instrumentalities of the Commonwealth of Puerto Rico in the disclosure of the scientific-forensic topics under their jurisdiction, including, but without being limited to investigating procedures and scientific methods and techniques, with the purpose of preventing, investigating and fighting crime and accidents.
- (h) Compile, organize, preserve, and publish data and statistics pertaining to the Institute's matters. Likewise, it shall be entrusted with the creation of the Puerto Rico Sexual Assault Statistics Registry. To achieve the purposes of this subsection, the Institute shall require from any agency, corporation, dependency, or instrumentality of the Government of Puerto Rico, including the Judicial Branch and the municipalities any necessary data to create the Statistics Registry under its jurisdiction. Said Statistics Registry shall include, without being limited to, the following information:
 - (1) Socio-demographic data on the victim (age, gender, place of birth, city of residence, education, marital status, occupation, income, and source of income).
 - (2) Brief description of the facts.
 - (3) City and location where the facts took place.
 - (4) Circumstances affecting the victim's vulnerability.
 - (5) Description of the assailant or assailants (relation to the victim, gender, and approximate age).
 - (6) Kind of sexual assault offenses (type and means employed)
 - (7) Situations arising after the assault.
- (i) Adopt an official seal of which judicial knowledge shall be taken.
- (j) Prepare and administer its budget.
- (k) Accept and receive any donations or any other type of help in money, goods or services from private persons or institutions and administer them according to the terms of the donation and the law.
- (l) Request and obtain help or assistance in money, goods or services from the Government of the United States, the states of the Federation, the Government of the Commonwealth of Puerto Rico, or any of its agencies, public corporations or political subdivisions, for the purposes of this Act pursuant to the applicable legislation, regulations, agreements or contracts.

Section 6. — Jurisdiction of the Institute. (34 L.P.R.A. § 3006)

The Institute shall render its services to the entire territorial area of Puerto Rico.

Section 7. — Personnel and Organization. (34 L.P.R.A. § 3007)

The Institute's personnel shall consist of one Director, who shall be a qualified Forensic Scientist, Forensic Pathologists, Assistant Forensic Pathologists, Forensic Physicians, Clinical Forensic Physicians, Forensic Radiology Technicians, Forensic Nurses, Forensic Researchers, Forensic Chemists, Forensic Serologists, Forensic Document Analysts, Firearms Examiners, Digital and Multimedia Evidence Examiners, Photography Technicians, Forensic Pathologist Assistants, Laboratory Technicians, and such scientific, technical, and administrative personnel as may be needed to perform the functions stated in this Act. Whenever possible, the Institute shall carry out its functions by organizing its operations into technical sections which may be, without said listing being exhaustive, the following: Forensic Pathology Section, Toxicology Section, DNA and Serology Section, Forensic Chemistry Section, Digital and Multimedia Evidence Section, Forensic Document Analysis, Firearms and Toolmark Identification Section, Controlled Substances Section, Evidence Control, and Custody Section.

All personnel of the Institute shall comply with the continuing education requirements determined through regulations by the Board of Directors in coordination with the Institute of Forensic Sciences, based on the requirements of the entities accrediting the technical and scientific divisions of this agency. Furthermore, such personnel shall carry out its functions in the physical facilities of the Institute or in on-site investigations.

The Director of the Institute shall be Puerto Rico's Forensic Scientist.

Section 8. — Board of Directors; Functions. (34 L.P.R.A. § 3008)

The Puerto Rico Institute of Forensic Science's Board shall have the following functions:

- (a) Shall draw up the specific policy for the operation of the Institute of Forensic Sciences.
- (b) Shall supervise and evaluate the Institute's operations.
- (c) Shall approve the annual budget request and any other type of request for funds arising from the Institute.
- (d) Shall establish the minimum qualifications for the appointment of the Institute's professional employees.
- (e) Shall appoint the Director of the Institute and evaluate his work.
- (f) Shall confirm the Director of the Institute's designations of section or department directors and professional personnel.
- (g) Shall draw up the necessary regulations, that shall be compatible with the provisions of this Act, to define the functions of the sections or departments and the professional technical and administrative personnel of the Institute.
- (h) Shall call for whatever reports and statistical data he may feel are necessary from time to time.
- (i) Shall submit an annual report on the Institute's operations to the Governor and the Legislature.

(j) Shall hold regular monthly meetings and any special meetings he may deem are necessary for the most efficient operation of the Institute. The Board shall select the meeting place, but they shall meet at least twice a year in the Institute's facilities.

(k) Establish through regulations the continuing education norms, criteria and requirements for all technical and scientific personnel of the Institute, taking into account the recommendations of the Institute of Forensic Sciences, and the continuing education requirements prescribed by one or more accrediting bodies recognized in the forensic field at the national or international level, to wit, the National Association of Medical Examiners (NAME), the American Society of Crime Laboratory Directors-Laboratory Accreditation Board (ASCLD-LAB), Forensic Quality Services (FQS), and/or the Substance Abuse and Mental Health Services Administration (SAMHSA).

Section 9. — Director; Functions. (34 L.P.R.A. § 3009)

The Director shall direct the operations and functions of the Institute and shall stay in office as long as he enjoys the Board's confidence.

He may delegate any function or faculty conferred upon him to officials or employees of the Institute except those that by express provision of this Act he shares with, or require the Board of Director's approval.

He shall assign administrative duties based on criteria that will allow the most effective use of manpower; taking the following factors into consideration, among others: rational assignment and distribution of duties; distribution of authority in accordance with responsibilities; suitable selection of personnel; the provision of resources in tune with the needs of the Institute and its sections.

Section 10. — Classification and Remuneration. (34 L.P.R.A. § 3010)

The Institute shall be an individual administrator pursuant to the Public Serviced Personnel Act.

The classification and remuneration schedules of the personnel of the Institute shall be established taking into consideration the complexity of the work, educational background and experience required for each of the positions needed for the operation of the Institute. Any official or employee transferred to the Institute shall retain the status and rights they enjoyed when transferred, under the legislation and regulations in effect, and shall also retain any retirement system or pension fund prescribed by law for officials and employees who hold similar positions in the Commonwealth government.

The classifications held by the employees transferred by virtue of Section 37 shall be reclassified in tune with the classifications adopted by the Institute. In no case may this reclassification be lower, regarding the levels of complexity, the duties and the requirements to fill the position and the compensation schedule, to those who hold the positions at the time of the transfer.

Basic salaries for the remuneration schedules of the following positions are hereby established as indicated:

- (1) The minimum salary for forensic pathologists shall be sixty-five thousand dollars (\$65,000).

(2) The minimum salary for anatomy pathologists shall be fifty-two thousand dollars (\$52,000).

Section 11. — Investigation of the Cause of Death-Circumstances. (34 L.P.R.A. § 3011)

(a) It shall be the duty of the Institute of Forensic Medicine to investigate in order to determine the cause and manner of death of any person whose demise occurs under any of the following circumstances:

- (1) As a result of criminal acts or that are suspected to be the result of the commission of a crime.
- (2) As a result of any accident or act of violence or any subsequent act, regardless of its nature or time interval between said acts and the death, if there is reason to suspect that there is a relationship between said accident or the act of violence and the death.
- (3) As a result of poisoning or suspicion of such.
- (4) When the death occurs while in custody of the Police or officers of law and order, while in prison, or as a result of sickness or injury occurring while in prison, or suspicion thereof.
- (5) As a result or in relation with the occupation of the deceased.
- (6) When it is due to acute intoxication with alcohol, narcotics, or any other type of drug or controlled substances or suspicion of such.
- (7) When it is due to suicide or suspicion of such.
- (8) When in the process of an autopsy which was not originally considered as medico-legal, the pathologist discovers any clue, or any suspicion arises to indicate that such death could have occurred due to the commission of a crime. In such case, said pathologist shall suspend the autopsy and notify the Forensic Scientist of his suspicions immediately.
- (9) When death occurs suddenly or unexpectedly, while the person was enjoying relative or apparent good health.
- (10) When death occurs during or after an abortion or delivery, or suspicion of such.
- (11) When the physician who attended said person while living cannot reasonably establish that the death was due to natural causes.
- (12) When death occurs during or after surgical, diagnostic, or therapeutic procedures, or when the deceased was under anesthesia or recovering from it.
- (13) When death occurs during the course of an illness, if there is a suspicion that factors extraneous to said illness could have contributed to the death.
- (14) When death occurs in a convalescent home, asylum, "Establishment", as defined in Section 3, subsection (2), (3), (4), (5) and (8) of Act No. 94 of June 22, 1977, [8 L.P.R.A. § 353], or similar institution, whether it be Commonwealth, municipal or private.
- (15) When death occurs to a person who had a contagious disease which could constitute a threat to the public health.
- (16) When it occurs within twenty-four (24) hours after the admission of the patient to a hospital, clinic or asylum, whether it be Commonwealth, municipal or private, whenever the death cannot be attributed to natural causes.

(17) When death occurs during hospitalization in a psychiatric institution, whether it be Commonwealth, municipal or private, except in cases of death due to childbirth, duly certified by a physician.

(18) If it was caused by a physical force such as electricity, heat, cold, radiation or the effect of chemical products.

(19) Any death due to malnutrition, abandonment or exposure to the elements, or as a result of negligence.

(b) It shall also be the duty of the Institute to investigate the cause and manner of the death of a person:

(1) When the corpse is to be cremated, dissected or it is to be disposed of in such a way that it will not be available subsequently for examination, regardless of how the death occurred.

(2) When the prosecutor or the trial judge who investigates the death of any person requests the Puerto Rico Institute of Forensic Sciences to do so.

Section 12. — Mandatory Autopsy. (34 L.P.R.A. § 3012)

When death is produced under the circumstances enumerated in clauses (1) through (11) and in clause (17) of subsection (a) of Section 11 of this Act, it shall be mandatory to perform an autopsy in order to determine the cause and manner of said death. In the case of clause (14), it shall be mandatory to perform an autopsy when ordered by the prosecuting attorney who shall be informed of all the deaths contemplated in this clause. In all other cases enumerated in Section 11, an autopsy shall be performed at the discretion of the Forensic Pathologist responsible for the investigation whenever any doubts arise about the cause of death and the manner in which it took place or when for some reason it is deemed necessary for the best elucidation of the facts. In the case of both mandatory and discretionary autopsies, the Institute of Forensic Sciences shall incorporate into its data base the number of the complaint, if any, assigned by the Puerto Rico Police, when the death of any person is produced under certain of the situations specified in this Act, to the report about the results of the autopsy.

In all cases the Director of the Institute or any of its Forensic Pathologists and Auxiliary Coroners shall have the authority to perform or order an autopsy to be performed.

Section 13. — Autopsy by Request of Investigating Authorities. (34 L.P.R.A. § 3013)

The Institute shall perform an autopsy on a cadaver whenever a prosecutor or trial judge so requests it, in any case.

Section 14. — Other investigative services. (34 L.P.R.A. § 3014)

With regard to crimes in which no death of a human being has been caused, the Institute of Forensic Sciences, upon petition of judges, prosecutors, defense attorneys, shall also perform all necessary laboratory investigations that are available, to provide the information they need to help clarify the matter in question. If the circumstances permit it, the Institute's services in the area of toxicology, analysis of controlled substances; analysis of explosives

accelerants, residue, distances of shots, comparison of glass, paint, soil, fibers and metals; forensic serology, criminal photography, identification of firearms, questionable documents and lie detection and forensic investigation services, shall be available.

The Institute shall perform all the scientific services that the Puerto Rico Police Laboratory renders at present, and all the services rendered by the Special Investigation Services' Technical Services Division, as well as any other forensic science service needed in the future as an adjunct to the investigating process.

Section 15. — Report of Cases of Death to the Forensic Physician. (34 L.P.R.A. § 3015)

The prosecutor or trial judge performing the investigation shall make a report of the cases of deaths which appear to have occurred under any of the circumstances enumerated in Section 11 of this Act to the Institute, which shall provide for the pertinent investigation.

Section 16. — Duty of Every Person to Report a Death. (34 L.P.R.A. § 3016)

(a) Every person having knowledge of a death occurring under any of the circumstances specified in Section 11 of this Act shall immediately report the same to the Puerto Rico Police or to any judge or prosecutor, who shall proceed to advise the Institute. Any person who wilfully neglects to report a death occurring under the aforesaid circumstances shall be guilty of a misdemeanor.

(b) Any person who, without a written permit from the competent authorities, touches, moves or lifts the body of a person who died under such circumstances, or touches or moves the clothes or objects close to the body, shall be guilty of a misdemeanor. Such prohibitions exclude physicians authorized by the Institute, hospitals, clinics, health centers, and any other institutions which render medical-hospital services, whether they be public or private, whenever death occurs in situations where the circumstances of violence or crime included in clauses (1) and (2) of subsection (a) of Section 11 of this Act are not present. In such cases, the cadavers shall be transported and preserved in the morgues of the institutions involved, until a prosecutor, trial judge or official of the Institute with authority to do so, authorizes the removal of the body. Likewise, the clothes and objects of the deceased, together with objects found close to the corpse, shall be gathered and preserved intact to be placed at the disposal of the prosecutor, trial judge and/or officials of the Institute charged with investigating the case at a later date.

Section 17. — On site investigation by the Personnel of Institute. (34 L.P.R.A. § 3017)

In every case in which the Institute is advised of a death occurring under clauses (1) through (7), (10) and (17), of subsection (a) of Section 11 of this Act, or when requested by a prosecutor or trial judge, a forensic investigator shall be sent to the site of the death to carry out the pertinent investigations. A forensic pathologist and/or a toxicologist, and/or any other technical personnel required will be sent to the site of the demise, if necessary, in order to help elucidate the circumstances and manner of death.

Section 18. — Notes on the Preliminary Investigation. (34 L.P.R.A. § 3018)

In any case that is investigated by the personnel of the Institute at the site of the death, said personnel shall make notes at the site of all the circumstances deemed significant, such as the position and location of the corpse, blood stains, signs, objects, clothes, fibers, signs of violence, as well as the manner and cause of death. General and specific photographs shall be taken, and such studies for identification and of any other nature that may be performed on the scene shall be carried out. A preliminary report shall be rendered immediately to the trial judge or prosecutor.

Section 19. — Removal of the Corpse. (34 L.P.R.A. § 3019)

In every case, the removal of the corpse shall be authorized by the prosecutor or trial judge investigating the case. Such order shall specify whether the body should be taken to any of the installation of the Institute throughout the Island, with the purpose of performing the autopsy or conducting subsequent investigations, or whether the corpse may be delivered to the next of kin of the deceased.

The forensic pathologists and investigators of the Institute charged with investigating the cause of death at the site where it occurred shall have the same authority, whenever it has been determined with reasonable certainty that the death was produced without any act of violence or criminality included in clauses (1) and (2) of subsection (a) of Section 11 of this Act.

Section 20. — Autopsy Results. (34 L.P.R.A. § 3020)

In every case in which an autopsy is performed, the results thereof shall be brought before the trial judge or prosecutor as soon as possible, in addition to any other information that could help them elucidate the facts. The same information shall be provided to the defense attorneys and the next of kin of the deceased.

Section 21. — Sworn Statements. (34 L.P.R.A. § 3021)

The Forensic Scientist of Puerto Rico, the Forensic Pathologists, the Auxiliary Forensic Pathologist, the Auxiliary Forensic Physicians and Forensic Investigators of the Institute are authorized:

- (a) To take sworn statements in all cases investigated by them,
- (b) to own and bear firearms.

Section 22. — Rules and Procedures. (34 L.P.R.A. § 3022)

The Director of the Institute shall propose any rules and regulations needed for the operation of the Institute and the implementation of this Act to the Board of Directors.

Section 23. — Filing of Cases; Conservation, Inspection. (34 L.P.R.A. § 3023)

The Institute shall maintain files of all the cases it investigates as well as of those investigated by the Forensic Pathologists and Coroners, Auxiliary Coroners or the technical personnel of all the districts. Each case shall be filed under the name of the victim, if known, the number of the complaint, if any, of the Puerto Rico Police for the particular incident, the place where the corpse was found and the date of death. In those cases where there has been no death, the case shall be filed under the name of the person charged and under the number of the complaint, if any, of the Puerto Rico Police for the particular incident. An index shall be kept to permit the prompt location of any case at any time. The record of each case of death shall include the original coroner's report and the protocol of the autopsy or a copy thereof, if it has been performed, and the number of the complaint, if any, of the Puerto Rico Police, about the particular incident. In other cases, the analyses that were performed or copies thereof and the number of the complaint, if any, of the Puerto Rico Police about the particular incident shall be included. The files shall be kept at the Institute, duly protected and safeguarded against theft, fire and their inspection by unauthorized persons.

The inspection of the Institute's files by attorneys, physicians, and other experts of the parties in any criminal or civil procedure related to cases investigated by the Institute, as well as interviews by the above mentioned persons with the Institute's professional personnel who intervened in said case, shall be regulated by the Director of the Institute, with due protection of the fundamental rights of the parties, and guaranteeing due process of law.

Section 24. — Custody of Personal Belongings of the Deceased. (34 L.P.R.A. § 3024)

The clothing, money, jewelry, or any other personal object of the deceased found on the body, in those cases that autopsies are to be performed, shall be taken into custody, kept and duly identified by the Forensic Scientist for whatever time is necessary for the purpose of his investigation. The objects not needed by the Forensic Scientist for the investigation or by the prosecutor for the discharge of his duties shall be delivered to the next of kin of the deceased by the Institute.

Likewise, any object which was originally retained by the Institute or by the prosecutor, which is not needed later for their purposes, shall be delivered to the family of the deceased as soon as possible.

Section 25. — Disposal of the Body. (34 L.P.R.A. § 3025)

After the autopsy or investigation, the body of the deceased shall be delivered to the next of kin, or the person charged with the burial, on written and signed application, following the order indicated below:

- (1) To the surviving spouse, if they cohabited at the time of the death.
- (2) To the eldest child, and in case of his absence or disability, to the child next in succession, if they are of legal age.
- (3) To the father or mother.
- (4) To the eldest of the brothers or sisters of whole blood, and in their absence, to the eldest of the half-brothers or sisters, provided they are of legal age.

- (5) To the grandfather or grandmother.
- (6) To the tutor of the deceased at the moment of death, or the relative or private person who cared for the deceased during his life.
- (7) To any person or entity authorized or obligated by law to dispose of the corpse.

Section 25-A. — Disposal of the Body to a Specific Person. (34 L.P.R.A. § 3025a)

Once the term of six (6) days as of the autopsy and investigation have elapsed and the body remains unclaimed in accordance with the provisions of Section 14 of Act No. 296 of December 25, 2002 [24 L.P.R.A. § 3620*l*], any person or entity may claim it for burial or cremation, provided that the following requirements are met:

- (a) The person that claims the body shall be of legal age.
- (b) The person that claims the body shall submit a negative criminal record certificate to the Institute.
- (c) The person or entity that claims the body must have been connected in some manner to the deceased, or the deceased must have been a member of the claiming entity.
- (d) If the person who claims the body is a member of a civic or religious entity, said person must provide a formal request issued by said organization to claim the body and to prove that the deceased was a member of said entity.
- (e) By means of a sworn statement, the person or entity must:
 - (1) Prove the motive for claiming the deceased.
 - (2) Prove the connection to the deceased.
 - (3) Describe the steps taken to locate the next of kin of the deceased or prove knowledge of their whereabouts.
 - (4) State the name of the institution that shall bury or cremate the deceased.
 - (5) The person that claims the body shall present information or documents that attest to the information that is affirmed in the sworn statement to the Institute.

Once the term to claim the body as provided by this Act has elapsed, the Board cannot be held responsible for the release of the body to another person or entity that complies with the provisions of this section. The Board shall not be civilly liable when it releases a body pursuant to the provisions of this section, in the absence of a timely claim from a person with priority within the term provided by the law.

Section 25-B. — False information-Misdemeanor. (34 L.P.R.A. § 3025b)

If the person who claims the body submits false information to the Institute or uses the body for any activity other than burial or cremation, said person shall incur a misdemeanor, and if found guilty, shall be sanctioned with a maximum penalty of imprisonment for three (3) months, or a five-hundred-dollar (\$500) fine, or both penalties, at the discretion of the court.

Section 26. — Preservation of Tissue Samples and Other Evidence. (34 L.P.R.A. § 3026)

In all those cases that an autopsy is performed, the Institute shall preserve all necessary samples of blood, urine, body fluids, organs and parts of tissues, according to the best

acceptable medical practices, and such other objects as, but without being limited to, bullets and any other foreign bodies found in the corpse, to be used as corroborating proof and/or evidence. Said organs, samples of tissues, blood, urine, body fluids and objects shall be preserved and kept in custody in such a way that the identity and integrity thereof are guaranteed.

The samples of tissues, blood, urine and body fluids shall be preserved for a period of not less than six (6) months. The organs and tissue samples shall be preserved for a period not less than one (1) year. The Institute of Forensic Sciences shall preserve a scientific sample before disposing of said samples.

Evidence from other criminal cases that require analysis or examination and where there has not been a death or grave bodily injury, shall be received and preserved for analysis or examination. The agency that submitted the evidence for analysis shall take custody thereof once it has been analyzed or examined by the Institute of Forensic Sciences, except in the cases involving controlled substances. The Institute shall dispose of the evidence related to a criminal case when one or more of the following circumstances occur:

- (a) The crime has prescribed.
- (b) The head of the agency that submitted the evidence remits written notification for the seizure thereof.
- (c) The court has reached a final and binding determination on the case which cannot be appealed.

The Department of Justice shall notify the Institute of Forensic Sciences in writing of the resolution of the cases in which the Institute has intervened in the analysis of evidence of physical and legal nature, with the purpose of disposing of the evidence as established in this section.

The Director of the Institute shall establish the procedures to be followed to comply with the provisions of this section.

Section 27. — Institute Reports Shall be as Prima Facie Evidence. (34 L.P.R.A. § 3027)

The Institute shall issue, by request of an interested party and after payment of the fees and expenses incurred, certified copies of the reports of the autopsies and scientific analyses performed by the professional personnel of the Institute. The exact concordance between such copies and the Institute's records shall be consigned in the certificate.

Nevertheless, when the reports of autopsies and scientific analyses requested are related to a case whose criminal investigation is under way, no copies of said reports shall be issued unless the Secretary of Justice gives his approval, unless the request comes from a competent court.

The certified copies of the reports shall be admissible in the courts of the Commonwealth of Puerto Rico, subject to the provisions of the Rule of Evidence of Puerto Rico, App. IV of Title 32.

Section 28. — Copy of Medical Record Shall be Attached to Cases Referred to Institute. (34 L.P.R.A. § 3028)

Every corpse referred to the Institute by any hospital, clinic or medical or hospital center shall be sent to the Institute with a photocopy of the deceased's medical record and a summary thereof.

Section 29. — Seat of Institute. (34 L.P.R.A. § 3029)

The Institute shall have its offices and laboratories in San Juan and shall negotiate and establish as soon as possible, those regional laboratories and offices throughout the Commonwealth of Puerto Rico, needed to implement this Act.

Section 30. — Territorial Demarcations Served by the Institute's Diverse Offices and Laboratories. (34 L.P.R.A. § 3030)

The Institute's Board of Directors shall determine the location of the Regional Offices and Laboratories of the Institute of Forensic Sciences and the Territorial demarcation they shall serve.

Section 31. — Working Schedule of the Institute. (34 L.P.R.A. § 3031)

The Director shall establish the working schedule of the different offices of the Puerto Rico Institute of Forensic Medicine so that the Institute's services will be available at all times.

Section 32. — Arrangements with Other Institutions. (34 L.P.R.A. § 3032)

Whenever it is necessary or convenient, the Institute may make the pertinent arrangements with the Department of Health of the Commonwealth of Puerto Rico, with the University of Puerto Rico Campuses, other Commonwealth or federal government institutions, and with private institutions be they educational or laboratories or which provide medico-hospital services, for the use of physical facilities in those areas of Puerto Rico where the Institute does not have its own facilities.

Section 33. — Services. (34 L.P.R.A. § 3033)

The Institute may make arrangements and agreements so that through adequate compensation, it may render services related to forensic matters to other public or private hospitals, clinics, health centers and institutions which provide medico-hospital services, without impairing the functions of the Institute established by this Act. Said compensation shall nurture the operational funds of the Institute, subject to the due accounting that pertains to all public moneys.

Section 34. — Duty of Physicians to Perform Autopsies. (34 L.P.R.A. § 3034)

The Director of the Institute or any prosecutor or trial judge, in coordination with him, may require any qualified physician in the Commonwealth of Puerto Rico, whenever the circumstances so warrant, to perform an autopsy. Any physician thus approached who refuses to perform said autopsy shall be guilty of a misdemeanor. Every physician who performs such autopsies shall immediately send a copy of the protocol of the autopsy performed to the Institute.

Section 35. — Participation of Professional Personnel from the Institute as Private Experts is Forbidden. (34 L.P.R.A. § 3035)

The professional personnel of the Institute of Forensic Sciences shall not participate as private experts in civil suits. Whenever the professional staff of the Institute is summoned by the court or by request of one of the parties to testify in a civil suit in which it intervened in the investigation, the court will fix the appropriate reasonable fees which shall be consigned in court beforehand, and then transferred to the operating funds of the Institute. Likewise, the court shall fix the corresponding transportation expenses and per diems to be paid to the official of the Institute summoned by the court.

Section 36. — Periodic Medical Examination of Personnel. (34 L.P.R.A. § 3036)

The Institute's personnel shall be submitted periodically, not less than once a year, to a complete medical examination, including all the pertinent clinical analyses. Said examinations shall be performed by the University Hospital of the Medical Sciences Campus, free of charge, for the Institute's personnel. The Director shall be responsible for making the necessary arrangements with the Medical Director of the University Hospital, annually, for the medical examinations to be performed.

Section 37. — Transfer of Personnel, Equipment and Facilities of the Puerto Rico Police Laboratory, the Forensic Medicine Institute and the Technical Services Division of the Special Investigations Bureau to the Puerto Rico Institute of Forensic Sciences. (34 L.P.R.A. § 3001 note)

Upon enactment of this act, the personnel of the Puerto Rico Police Criminal Laboratory, the Institute of Forensic Medicine and the Technical Services Division of the Special Investigations Bureau shall be evaluated by the Director of the Institute, who shall determine which of the employees shall become a part of the Institute. The Board shall approve the employees who shall be transferred from the above mentioned institutions to the Bureau, as recommended by the Director. The rights of those employees who are not transferred to the Institute shall be protected in accordance with the Personnel Act in the Medical Sciences Campus, the Puerto Rico Police and in the Special Investigations Bureau.

Likewise, all the equipment, material, files, records and facilities of the Scientific Laboratory of the Puerto Rico Police and the Special Investigations Bureau shall become a part of the Puerto Rico Institute of Forensic Sciences, as well as the budget appropriations

and other available resources. In subsequent years, the funds needed for the operations of the Institute of Forensic Medicine and the implementation of this act shall be set aside in the General Budget of Expenses of the Commonwealth of Puerto Rico Joint Resolution. The funds shall be used exclusively for the operation of the Institute and the implementation of this act. Said funds shall be administered by the Director of the Institute with the supervision of the Board of Directors of the Puerto Rico Institute of Forensic Sciences.

The transfer of these resources shall be carried out in a gradual, organized and coordinated manner by the agencies concerned, in such a way that the services rendered at present will not be affected.

Section 38. — Separability. (34 L.P.R.A. § 3001 note)

The judicial declaration of unconstitutionality of any part of this act shall not invalidate the remaining provisions thereof.

Section 39. — Scope of this Act with regard to the "Anatomical Donations Act". (34 L.P.R.A. § 3001 note)

Act No. 11 of April 15 of 1974 as amended, known as the "Anatomical Donations Act", which provides for everything connected with the acquisition of tissues and organs to be donated, shall continue to be applied in accordance with its terms, provided it does not interfere with the execution of the autopsy or the investigation to be carried out by the Institute.

Section 40. — Repeal. (34 L.P.R.A. § 3001 note)

The following statutory provisions are hereby repealed:

(a) Act No. 5 of November 21, 1978 as amended, and any other act or provision which is incompatible herewith.

Section 41. — Effectiveness.

This act shall take effect July 1, 1985.

Note. This compilation was prepared by the Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.