Intro. Res. No. 1696-2012 Laid on Table 6/19/2012
Introduced by Legislators Romaine, Kennedy and Schneiderman

RESOLUTION NO. 736 -2012, ADOPTING LOCAL LAW NO. 50 -2012, A CHARTER LAW TO ESTABLISH AN INDEPENDENT OFFICE OF THE MEDICAL EXAMINER

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on June 19, 2012, a proposed local law entitled, "**A CHARTER LAW TO ESTABLISH AN INDEPENDENT OFFICE OF THE MEDICAL EXAMINER**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 50 -2012, SUFFOLK COUNTY, NEW YORK

A CHARTER LAW TO ESTABLISH AN INDEPENDENT OFFICE OF THE MEDICAL EXAMINER

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature finds that the County currently has a Division of Medical-Legal Investigations and Forensic Sciences within the Department of Health Services, which is headed by the Chief Medical Examiner.

This Legislature determines that the Division of Medical-Legal Investigations and Forensic Sciences coordinates with several law enforcement agencies, including the Suffolk County Police Department, the Sheriff's Office and the District Attorney, to provide essential information associated with ongoing investigations.

This Legislature also finds that currently, the Division of Medical-Legal Investigations and Forensic Sciences reports to the Department of Health Services.

This Legislature further finds and determines that, to ensure a competent, professional examination of forensic scientific evidence and deceased individuals, the County needs a department which specializes in forensic sciences.

This Legislature further finds that, due to the sensitive nature of its work and its importance to the County, the Division of Medical-Legal Investigations and Forensic Sciences should be established as an independent office.

Therefore, the purpose of this law is to establish an independent Office of the Medical Examiner in the SUFFOLK COUNTY CHARTER.

Section 2. Repeal.

Section A9-2(D) of the SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby repealed in its entirety and all subsequent paragraphs are relettered accordingly.

Section 3. Amendment.

I. A new Article XXXII of the SUFFOLK COUNTY CHARTER is hereby enacted to read as follows:

ARTICLE XXXII. Office of the Medical Examiner

§ C32-1. Office of the Medical Examiner established.

A. There shall be an Office of the Medical Examiner which shall be responsible for the investigations of deaths as prescribed herein and for furnishing forensic medical, scientific, laboratory and other technical services to the departments, offices and agencies of the County.

B. The head of the Office of the Medical Examiner shall be the Chief Medical Examiner, who shall be appointed by the County Executive for a six-year term, subject to the confirmation of the County Legislature. The Chief Medical Examiner shall be a physician licensed to practice medicine in the State of New York and shall be a qualified pathologist and possess an adequate knowledge of forensic medicine.

C. The Chief Medical Examiner, within the appropriations made therefor, shall appoint a Chief Deputy Medical Examiner, who shall also be a physician licensed to practice medicine in the State of New York. In addition to such other duties as may be assigned by the Chief Medical Examiner, the Chief Deputy Medical Examiner shall possess the powers and perform the duties of the Medical Examiner during his absence or inability to act.

D. The Chief Medical Examiner, within the appropriations made therefor, may, in conformity with the rules and regulations applicable to the civil service, appoint such forensic investigators and deputy medical examiners as may be authorized by the County Legislature. Forensic investigators and deputy medical examiners shall assist the Chief Medical Examiner in the conduct of investigations and the discharge of his other duties and responsibilities; shall conduct tests and examinations and furnish forensic, medical, investigative and technical services; and shall possess such qualifications and perform such other duties as may be determined by the Chief Medical Examiner.

II. A new Article XXXII of the SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby enacted to read as follows:

ARTICLE XXXII. Office of the Medical Examiner.

§ A32-1. Definitions.

In this article, the following terms shall have the meaning indicated:

CAUSE OF DEATH - The medical state or condition which, directly or indirectly, results in a death.

MANNER OF DEATH - The circumstances causing or producing a death. "Manner of death" shall be classified into one or more of the following categories:

(a) Natural.
(b) Accident.
(d) Homicide.
(e) Suicide.
(f) Undetermined.

§ A32-2. Jurisdiction of the Chief Medical Examiner; Additional Powers and Duties.

A. The Chief Medical Examiner shall have jurisdiction to investigate and to execute any certification, reports or other documents when a preliminary inquiry conducted pursuant to this Article indicates that a death may have occurred under one or more of the following circumstances:

1. Deaths which occur from criminal violence.

2. Deaths which occur from an unlawful act or criminal neglect.

3. Deaths which occur through casualty.

4. Suicide.

5. Deaths which occur suddenly when in apparent good health.

6. Deaths which occur unattended by a physician and where no physician can be found to certify the cause or manner of death. In this context, "unattended by a physician" shall mean not visited or treated by a physician within the 10 days immediately preceding death. If, during the course of an investigation of a death in this category, the Chief Medical Examiner or his representative determines that the deceased was attended by a physician or identified a physician who is otherwise responsible for certifying the cause or manner of death, the Chief Medical Examiner or his representative may terminate the investigation and allow the attending physician or other physician to certify the cause or manner of death and execute any necessary certificates.

7. Deaths which occur in public institutions and hospitals, including but not limited to the Suffolk County Correctional Facility or in police custody.

8. Deaths which occur during a diagnostic or therapeutic procedure or which occur as a result of a diagnostic or therapeutic misadventure.

9. Where an application is made pursuant to law for a permit to cremate a body or to dispose of a dead body otherwise than by interment in a cemetery.

10. Upon the discovery of anatomical material suspected of being or determined to be a part of a human body.

11. When a fetus is born dead in the absence of a physician or midwife.

12. Deaths which may constitute a threat to public health.

13. Deaths by disease, injury or toxic agent resulting from employment.

14. When a dead body is brought into the County without proper medical certification.

15. Deaths which occur in any suspicious or unusual manner.

B. In connection with a death or other matter within his jurisdiction or the jurisdiction of the Office of the Medical Examiner, the Chief Medical Examiner and the Deputy Chief Medical Examiner, if specifically so authorized in writing by the Chief Medical Examiner, shall have the power to hold hearings, subpoena witnesses, administer oaths and affirmations, take testimony of any person under oath and compel the production of books, records and other evidence.

C. The Chief Medical Examiner may employ a qualified physician or other experts to make postmortem examinations and to testify thereon at a compensation to be fixed by the County Legislature or, if none is fixed, commensurate with the compensation which would be likely to be received for such service in the County.

§ A32-3. Investigations.

A. When notified of a death which may be within his jurisdiction, the Chief Medical Examiner, a Deputy Medical Examiner or a forensic investigator shall conduct a preliminary inquiry to determine if, in fact, the death falls within the Chief Medical Examiner's jurisdiction, as set forth in Section C32-3.

B. If it appears from the preliminary inquiry that the death is within the Chief Medical Examiner's jurisdiction and that the intervention of his office is necessary or advisable, the Chief Medical Examiner, a deputy medical examiner or a forensic investigator shall initiate an investigation and take charge of the dead body if necessary. Such investigation is subject to coordination by the case primary detective who, pursuant to Police Department rules and procedures, retains control of the crime scene at all times and who shall inquire into the cause and manner of death, prepare a report of the investigation and file the same in the Office of the Medical Examiner.

§ A32-4. Autopsies.

A. In the course of the investigation, the Chief Medical Examiner, a deputy medical examiner or a qualified pathologist shall make or cause to be made such examinations, including an autopsy, which may be necessary to establish the cause of death, to determine the manner of death, to establish any other fact which may be relevant to the circumstances of or the investigation of the death or which may be otherwise necessary in the public interest.

B. The report of any autopsy shall state the facts and circumstances tending to show the cause and manner of death. The person performing the autopsy shall include in the report a diagnosis of the cause of death and shall classify the manner of death into one or more of the categories set forth in the definition of "manner of death" in Section C32-2. The report of the autopsy shall be filed in the Office of the Medical Examiner.

§ A32-5. Forensic sciences.

A. In addition to the jurisdiction of the Chief Medical Examiner over certain deaths and his duties and responsibilities in connection therewith, the Office of the Medical Examiner shall be responsible for furnishing forensic medical, technical and scientific investigative services to the Suffolk County Police Department, the Suffolk County District Attorney's Office, the Suffolk County Department of Health Services and other authorized departments and agencies. These services shall include but shall not be limited to chemical, toxicological and other laboratory tests, ballistics examinations, and such other scientific and technical tests, examinations or experiments as the Chief Medical Examiner, within the appropriations made therefor by the County Legislature, shall deem necessary or advisable to provide.

B. In connection with the performance of forensic medical, technical and scientific investigative services, employees of the Office of the Medical Examiner shall, when actually engaged in the performance of such services for such Office, have the authority and the duty to receive, retain, transport and possess controlled substances, firearms and other dangerous weapons, fireworks, pornography equipment, gambling devices, gambling records and other contraband as defined by the New York State Penal Law, the New York Public Health Law or other provisions of law.

§ A32-6. Records and reports.

A. The Office of the Medical Examiner shall keep full and complete records, including records of the name, if known, of every person whose death is investigated, the place where the body was found and the date of death, as near as can be ascertained, to which there shall be attached the original report of the Chief Medical Examiner and the detailed findings of the autopsy, if any, with respect to such person.

B. The Chief Medical Examiner or his representatives shall promptly deliver to the District Attorney copies of all records and reports concerning any death where, in their judgment, there is an indication of criminal misconduct.

C. All other records of the Office of the Medical Examiner shall be subject to public inspection in the manner and to the extent set forth in the Charter and other applicable law.

D. Each request for cremation approval from the Office of the Medical Examiner for which an application for a permit to cremate a body has been filed must be accompanied by a cremation approval fee in the amount of $60, which fee may be waived by the Chief Medical Examiner where the relatives or other persons requesting the cremation approval are acting for a deceased recipient of public assistance or care, as defined in New York Social Services Law § 141, and are unable to pay said amount.

E. Each request for an autopsy report from the Office of the Medical Examiner, other than a request from the deceased's next of kin or as otherwise provided by law, must be accompanied by an autopsy report fee in the amount of $30, which fee may be waived by the Chief Medical Examiner where the relatives or other persons requesting the report are acting for a deceased recipient of public assistance or care, as defined in New York Social Services Law § 141, and are unable to pay said amount.

Section 4. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 5. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 6. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 7. Effective Date.

This law shall take effect immediately upon its filing in the Office of the Secretary of State.

___ Underlining denotes addition of new language.

DATED: August 21, 2012

APPROVED BY:

County Executive of Suffolk County

Date: 9. 18. 2012

After a public hearing duly held on September 5, 2012
Filed with the Secretary of State on October 1, 2012

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY

This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on August 21, 2012 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Tim Laube

Clerk of the Legislature

Intro. Res. 1696 Res. No. 736 August 21, 2012

Motion:
Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Co-Sponsors:
Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Second:
Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE	✓				
2	Jay H. SCHNEIDERMAN	✓				
3	Kate M. BROWNING	✓				
4	Thomas MURATORE	✓				
5	Kara HAHN	✓				
6	Sarah S. ANKER				✓	
7	Rob CALARCO			✓		
9	Ricardo MONTANO			✓		
10	Thomas CILMI	✓				
11	Thomas F. BARRAGA	✓				
12	John M. KENNEDY, JR.	✓				
13	Lynne C. NOWICK	✓				
15	DuWayne GREGORY	✓				
16	Steven H. STERN	✓				
17	Lou D'AMARO	✓				
18	William SPENCER	✓				
14	Wayne R. HORSLEY, D.P.O.	✓				
8	William J. LINDSAY, P.O.				✓	
	Totals	14	—	2	2	—

MOTION

X Approve
___ Table: _____
___ Send To Committee
___ Table Subject To Call
___ Lay On The Table
___ Discharge
___ Take Out of Order
___ Reconsider
___ Waive Rule ___
___ Override Veto
___ Close
___ Recess

APPROVED___ FAILED___
No Motion___ No Second___

RESOLUTION DECLARED

___ ADOPTED
___ NOT ADOPTED

Roll Call___ Voice Vote___

Tim Laube
Tim Laube, Clerk of the Legislature