



## Decree 786 of 1990

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DECREE 786 OF 1990

(April 16)

Whereby Title IX of Law 09 of 1979 is partially regulated with regard to the practice of clinical and medico-legal autopsies, as well as viscerotomies, and other provisions are enacted.

THE PRESIDENT OF THE REPUBLIC OF COLOMBIA,

In exercise of the powers conferred upon him by Article 120, paragraph 3, of the Political Constitution,

DECREES:

CHAPTER I.

DEFINITIONS.

ARTICLE 1. AUTOPSY or NECROPSY shall be defined as the procedure by which, through observation, intervention, and analysis of a corpse, both externally and internally, and taking into account, where appropriate, the examination of evidence or physical evidence related thereto, as well as the circumstances known as prior to or subsequent to death, information is obtained for scientific or legal purposes.

(Article compiled in Article 2.8.9.1 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 2. VISCEROTOMY is understood to mean the collection of organs or samples from any of the anatomical components contained in the cavities of the human body, whether for medical-legal, clinical, public health, research, or teaching purposes.

(Article compiled in Article 2.8.9.2 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account)

CHAPTER II.

CLASSIFICATION OF AUTOPSIES.

ARTICLE 3. In general, autopsies are classified as MEDICAL-LEGAL and CLINICAL. They are medical-legal when performed for judicial investigation purposes and clinical in all other cases.

(Article compiled in Article 2.8.9.3 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account)

ARTICLE 4. Medical-legal and clinical autopsies, depending on their purpose, may be, jointly or separately:

- a) HEALTH-RELATED, if they serve the interests of public health;
- b) EDUCATIONAL, when their objective is to illustrate teaching and learning processes;
- c) RESEARCH, when they pursue scientific research purposes, whether pure or applied.

(Article compiled in Article 2.8.9.4 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account)

CHAPTER III.

MEDICAL-LEGAL AUTOPSIES.

ARTICLE 5. The objectives of medical-legal autopsies are as follows:

- a) To establish the causes of death, the existence of associated pathologies, and other particularities of the individual and their environment;
- b) To provide the information necessary to complete the death certificate;
- c) Verify or establish the diagnosis regarding the time of death (chrononatatodiagnosis);
- d) Contribute to the identification of the body;
- e) Help establish the circumstances in which death occurred and the manner in which it occurred (homicide, suicide, accident, natural causes, or undetermined), as well as the mechanism or agent involved;
- f) Establish the probable life expectancy, taking into account the vital statistics tables of the National Administrative Department of Statistics (DANE) and the natural history of the associated pathologies;
- g) Where applicable, establish the probable time of survival and the events or attitudes that may occur during that period, taking into account the nature of the injuries that caused death;
- h) Provide information for the purposes of the expert opinion;
- i) Perform viscerotomies to collect organs or obtain samples of anatomical components or organic fluids for teaching or research purposes.

PARAGRAPH. Under no circumstances and for no reason may a viscerotomy be performed as a substitute for a medical-legal autopsy.

(Article compiled in Article 2.8.9.5 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 6. Medical-legal autopsies shall be mandatory in the following cases:

- a) Homicide or suspected homicide;
- b) Suicide or suspected suicide;
- c) When it is necessary to distinguish between homicide and suicide;
- d) Accidental death or suspected accidental death;
- e) Other deaths in which the cause is unclear, or an autopsy is necessary to assist in the identification of a corpse when requested by a competent authority.

(Article compiled in Article 2.8.9.6 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 7. Among the autopsies that are mandatory, the following are distinguished in a special way:

- a) Those performed in cases of deaths occurring in persons in custody carried out or ordered by an official authority, such as those deprived of liberty or who are under the care and supervision of entities whose purpose is the custody and protection of persons;
- b) Those performed in cases of death where it is suspected that the death was caused by an occupational disease or accident at work.
- c) Those performed when death is suspected to have been caused by the use of chemical or biological agents, drugs, medications, household products, and the like;
- d) Those performed on the bodies of minors when death is suspected to have been caused by neglect or abuse;

- e) Those performed when death is suspected to have been caused by a medical procedure;
- f) Those performed in cases of death of pregnant women or the product of conception when there is suspicion of non-spontaneous abortion.

(Article compiled in Article 2.8.9.7 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account)

ARTICLE 8. The following are prerequisites for the practice of medical-legal autopsies:

- a) Removal of the body, preparation of the corresponding report, and submission of this report to the expert, together with the medical history in cases where the deceased had received medical care due to the events causing death. For the above purposes, it is mandatory to use the National Body Removal Report Form.
- b) Written request from the competent authority, using the National Corpse Removal Form for this purpose;
- c) Location of the body, by an authority or other persons, in the place deemed appropriate by the expert for its isolation and protection.

PARAGRAPH 1. When death occurs in a medical or healthcare facility, the physician who diagnoses it shall immediately deliver the corresponding medical record to the director of the entity or whoever acts on their behalf, given that it constitutes evidence in the jurisdictional sphere and must be preserved and safeguarded as such.

PARAGRAPH 2. The request made by the competent authority referred to in paragraph b) of this article shall be admissible in the exercise of the official's autonomy by reason of his or her functions or at the request of a third party in the cases provided for in this Decree.

(Article compiled in Article 2.8.9.8 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 9. The following professionals are competent to perform medical-legal autopsies:

- a) Duly authorized physicians employed by the Department of Forensic Medicine;
- b) Physicians performing compulsory social service;
- c) Official physicians;
- d) Other physicians designated to perform them by a competent authority and after obtaining the necessary qualifications for such purposes.

PARAGRAPH. The professionals indicated in this article must be doctors legally qualified in Colombia or with a degree officially recognized in accordance with the legal provisions in force on the matter.

(Article compiled in Article 2.8.9.9 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

#### CHAPTER IV.

#### CHAIN OF CUSTODY.

ARTICLE 10. In order to fulfill the objectives of the medical-legal autopsies provided for in this Decree, the evidence or physical evidence related to the corpse, available at the scene of the crime, as well as the information relevant to the circumstances known before and after death, once collected, shall remain under the responsibility of the officials or persons who form part of a chain of custody that begins with the authority responsible for removing the corpse and ends with the judge in charge of the case and other judicial authorities who are familiar with the case and require the evidence for the exercise of their functions.

(Article compiled in Article 2.8.9.10 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account)

ARTICLE 11. Officials or persons involved in the chain of custody referred to in the previous article, for the purposes of determining responsibilities, must leave a written record of:

- a) The complete and detailed description of the materials and items related to the case, including the corpse;
- b) The identification of the official or person assuming responsibility for the custody of said material, indicating the capacity in which they are acting, and indicating the period, circumstances, and characteristics of the manner in which it is handled.

(Article compiled in Article 2.8.9.11 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account)

ARTICLE 12. The responsibility for transporting the body, as well as for the custody of samples taken from it and other evidence, shall lie with the relevant authorities.

(Article compiled in Article 2.8.9.12 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 13. In order to preserve the authenticity of the evidence, the site from which it was removed or the place where it was found shall be accurately indicated, and it shall be marked, stored, and adequately protected by the person responsible for its custody at the time these actions are carried out.

(Article compiled in Article 2.8.9.13 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account)

ARTICLE 14. The General Directorate of the Institute of Legal Medicine shall indicate the manner in which corpses requiring a medical-legal autopsy should be protected and transported, as well as the methods for collecting, marking, storing, and protecting the evidence referred to in the previous article.

(Article compiled in Article 2.8.9.14 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

#### CHAPTER V.

#### CLINICAL AUTOPSIES.

ARTICLE 15. The objectives of clinical autopsies are as follows:

- a) To establish the causes of death, as well as the existence of associated pathologies and other particularities of the individual and their environment;
- b) To provide the information necessary to complete the death certificate;
- c) To confirm or rule out the existence of a specific pathological entity;
- d) To determine the evolution of the pathologies found and the changes due to treatment in order to establish the direct cause of death and its antecedents;
- e) Correlate autopsy findings with the contents of the corresponding medical record, when applicable;
- f) Perform viscerotomies to collect organs or obtain samples of anatomical components or organic fluids for teaching or research purposes.

(Article compiled in Article 2.8.9.15 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 16. The following are prerequisites for the practice of clinical autopsies:

- a) Request from the attending physician, with prior written authorization from the relatives or guardians of the deceased person;
- b) Availability of medical records, where applicable;
- c) Location of the body in the place designated by the corresponding medical-care facility for the performance of autopsies.

PARAGRAPH. In cases of health emergencies or in those in which scientific research for public health purposes so requires, and in cases in which the physician who must issue the death certificate so requires, an autopsy may be performed even in the absence of consent from the relatives.

(Article compiled in Article 2.8.9.16 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 17. Clinical autopsies may be performed by:

- a) Physicians designated for such purposes by the respective medical-care institution, preferably pathologists or those pursuing postgraduate studies in pathology;

b) The physician who must issue the death certificate when the autopsy is a prerequisite required by the same.

PARAGRAPH. The professionals referred to in this article must be physicians with a degree legally obtained in Colombia or recognized in accordance with the legal provisions in force on the matter.

(Article compiled in Article 2.8.9.17 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account)

#### CHAPTER VI.

##### VISCEROTOMIES.

ARTICLE 18. Visceratomies with medical-legal purposes when their practice is part of the performance of a medical-legal and clinical autopsy, in other cases.

(Article compiled in Article 2.8.9.18 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 19. Entities other than those that fulfill medical-legal objectives may only perform viscerotomies for teaching or research purposes, with the prior authorization of the relatives of the deceased person, a requirement that will not be necessary in cases where they must be performed for reasons of health emergency or scientific research for public health purposes.

(Article compiled in Article 2.8.9.19 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account)

ARTICLE 20. Whenever a viscerotomy is performed, written record must be kept of the purpose of the procedure and of the anatomical components removed and their destination.

(Article compiled in Article 2.8.9.20 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 21. Visceral incisions necessary for the surveillance and epidemiological control of yellow fever shall continue to be performed in accordance with Decree 1693 of 1979 and other legal provisions that modify, replace, or add to it.

(Article compiled in Article 2.8.9.21 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account)

#### CHAPTER VII.

##### AUTOPSIES AND THE OBTAINING OF ORGANS FOR TRANSPLANTATION PURPOSES.

ARTICLE 22. In accordance with Law 73 of 1988 and its Regulatory Decree 1172 of 1989, when medical-legal autopsies must be performed - legal autopsies must be performed, during the course of such autopsies, medical examiners may, for transplant or other therapeutic purposes, release and remove organs or anatomical components from corpses, or authorize a competent professional to do so under their custody, provided that the following conditions are met:

- a) That there is a prior donation, made in the manner established in the Decree mentioned in this article, or that there is a legal presumption of donation;
- b) That even if there has been a prior donation by the relatives of the deceased, there is no evidence that the deceased expressed opposition to this during their lifetime;
- c) That the extraction procedure does not interfere with the performance of the autopsy or with its objectives or results;
- d) That there is no opposition from the competent authorities in each case, including the judicial branch of government, the judicial police, the public prosecutor's office, and the ministries of justice and health;
- e) That the extraction of anatomical components be performed by the medical examiner, or under his or her supervision by another physician or technical professional in the field. In order for the latter to be able to intervene, organ banks whose operation is authorized by the Ministry of Health must first register with the corresponding Legal Medicine agencies;
- f) That the removal of anatomical components does not result in unnecessary mutilation and that when enucleations of the eyeballs are performed, they are replaced with fungible prostheses.

(Article not compiled in Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 thereof must be taken into account)

Decree 780 of 2016)

ARTICLE 23. For the purposes of this Decree, in accordance with Article 2 of Law 73 of 1988, there is a legal presumption of donation when, prior to the commencement of the autopsy, the relatives of the deceased do not prove their status as such and do not express their opposition to the removal of organs or anatomical components from the body for transplantation or other therapeutic uses.

(Article not compiled in Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of Decree 780 of 2016 must be taken into account).

ARTICLE 24. The forensic autopsy begins when the physician authorized to perform it observes the body for that purpose.

(Article compiled in Article 2.8.9.22 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 25. The manner of exercising custody over the removal of anatomical components from a corpse for transplantation or other therapeutic uses, when the procedure is not performed by a medical examiner, shall be determined by the General Directorate of Legal Medicine in compliance with the second paragraph of Article 44 of Decree 1172 of 1989.

(Article not compiled in Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of Decree 780 of 2016 must be taken into account).

ARTICLE 26. Anatomical components obtained from corpses subjected to medico-legal autopsies may only be used for transplantation or other therapeutic purposes and shall be destined for organ banks whose operation is authorized by the Ministry of Health and which are registered with the respective Legal Medicine agencies, without prejudice to the purposes sought with the viscerotomies regulated in this Decree.

(Article not compiled in Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of Decree 780 of 2016 must be taken into account).

#### CHAPTER VIII.

##### PROVISIONS COMMON TO THE PREVIOUS CHAPTERS.

ARTICLE 27. The following are minimum requirements for the practice of autopsies:

- a) Privacy, i.e., adequate conditions of isolation and protection;
- b) Sufficient lighting.
- c) Running water.
- d) Ventilation;
- e) Special autopsy table;
- f) Availability of electrical power.

PARAGRAPH. In exceptional circumstances, autopsies may be performed using a table or other suitable support to place the body. They may also be performed without the requirement for electricity and even if there is no running water.

(Article compiled in Article 2.8.9.23 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 28. In cases of medical-legal autopsies, the judicial and police authorities shall take the necessary measures to ensure compliance with the requirements set forth in the previous article.

(Article compiled in Article 2.8.9.23 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account)

ARTICLE 29. The following places are designated for the performance of autopsies:

- a) The autopsy rooms of the Forensic Medicine Institute, in the case of medical-legal autopsies, or, failing that, those provided for in the following paragraphs of this article;
- b) Hospital autopsy rooms, in the case of corpses other than those that are decomposing or have been

exhumed;

c) Autopsy rooms in public or private cemeteries, as well as other suitable locations, in the case of municipalities that do not have a hospital.

PARAGRAPH 1. At the discretion of the expert and in coordination with the authorities, medical-legal autopsies may be performed in places other than those indicated in this article.

PARAGRAPH 2. In the case of autopsies on decomposing or exhumed corpses, these may be performed in any of the places indicated in this article, other than hospitals.

(Article compiled in Article 2.8.9.24 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 30. Public or private hospitals, clinics, and cemeteries are required to build or adapt their respective autopsy rooms.

The competent health authorities shall refrain from issuing or renewing the health operating license when the entities referred to in this article do not comply with this obligation.

(Article compiled in Article 2.8.9.25 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 31. In order for the information obtained through the practice of autopsies and viscerotomies referred to in this Decree to be adequate for the objectives pursued, they must be performed as soon as possible after the time of death.

(Article compiled in Article 2.8.9.26 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 32. For both autopsies and viscerotomies, whether medical-legal or clinical, positive results for epidemiologically important diseases must be reported to the health authorities in accordance with current legislation on the matter.

(Article compiled in Article 2.8.9.27 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 33. For the purposes of this Decree, whenever a declaration of intent must be made as a relative of a deceased person, the following order shall be taken into account:

- a) The spouse who is not divorced or separated;
- b) The legitimate or natural children of legal age;
- c) The legitimate or natural parents;
- d) Legitimate or natural siblings of legal age;
- e) The grandparents and grandchildren;
- f) Blood relatives in the collateral line up to the third degree;
- g) Relatives by marriage up to the second degree.

Adoptive parents and adopted children shall occupy, within the order indicated in this article, the place corresponding to natural parents and children.

Whenever persons falling within the same category of this article are required to give their consent, in the absence of others with greater rights within the order indicated therein, and they express conflicting wishes, the majority shall prevail. In the event of a tie, consent shall be deemed to have been denied.

In order to exercise the right to object referred to in Article 23 of this Decree, relatives who appear and prove their status as such prior to the commencement of the autopsy shall be taken into account.

(Article compiled in Article 2.8.9.28 of Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of the same Decree 780 of 2016 must be taken into account).

ARTICLE 34. From the date of publication of this Decree, a period of 12 months is granted for the establishments indicated herein to comply with the obligation to build or adapt their respective autopsy rooms. If they fail to do so, the Heads of the Sectional Health Services may impose on the offending entities any of the penalties provided for in Article 577 of Law 09 of 1979.

(Article not compiled in Single Regulatory Decree 780 of 2016. The provisions of Article 4.1.1 of Decree 780 of 2016 must be taken into account).

ARTICLE 35. This Decree shall enter into force on the date of its publication and repeals any provisions that contradict it.

PUBLISH AND COMPLY.

Given in Bogotá, D. E., on the 16th day of April 1990.

VIRGILIO BARCO

THE MINISTER OF JUSTICE,

ROBERTO SALAZAR MANRIQUE.

THE MINISTER OF HEALTH,

EDUARDO DIAZ URIBE.

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