

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)

Act 175 of 1927

CHAPTER XIII

PROCEEDINGS FOR THE DISCOVERY OF CRIME

773.1 Inquest; procedures.

Sec. 1. A magistrate holding an inquest pursuant to Act No. 181 of the Public Acts of 1953, as amended, being sections 52.201 to 52.216 of the Michigan Compiled Laws, shall follow the procedures prescribed in this chapter.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17403;—CL 1948, 773.1;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 1 of Ch. 167 of R.S. 1846, being CL 1857, § 6089; CL 1871, § 7970; How., § 9583; CL 1897, § 11818; CL 1915, § 15645; and Act 48 of 1885.

773.2 Inquest; jury; selection.

Sec. 2. Upon determining that an inquest shall be held, a jury of 6 persons shall be selected. The jury shall be selected in the same manner as a jury is selected for the trial of a minor offense in the same court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17404;—CL 1948, 773.2;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 2 of Ch. 167 of R.S. 1846, being CL 1857, § 6090; CL 1871, § 7971; How., § 9584; CL 1897, § 11819; CL 1915, § 15646; and Act 48 of 1885.

773.3 Inquest; oath or affirmation to be administered jurors; view of body by jurors not required.

Sec. 3. (1) When the jurors summoned have appeared, the magistrate shall administer an oath or affirmation in substance as follows: "You do solemnly swear or affirm that you will diligently inquire in behalf of the people of this state, when, in what manner, and by what means, the deceased came to his or her death and that you will make a true inquest according to your knowledge and the evidence as brought before you".

(2) The jurors need not view the body of the deceased.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17405;—CL 1948, 773.3;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 3 of Ch. 167 of R.S. 1846, being CL 1857, § 6091; CL 1871, § 7972; How., § 9585; CL 1897, § 11820; CL 1915, § 15647; and Act 48 of 1885.

773.4 Inquest; subpoenas for witnesses; enforcement; requiring attendance by physician or surgeon; employment of chemist; compensation; audit and allowance.

Sec. 4. The magistrate may issue subpoenas for witnesses returnable immediately or at the time and place prescribed in the subpoena. The attendance of the person served with the subpoena may be enforced in the same manner and shall be subject to the same penalty as if the person had been served with a subpoena in behalf of the people of this state, to attend a trial before that magistrate. A magistrate holding an inquest may require by subpoena the attendance of a competent physician or surgeon for the purpose of making a postmortem examination and of testifying as to the result of the examination. The magistrate may also employ a chemist if there is reasonable ground of suspicion that death has been produced by poison. The amount of compensation for the attendance and services of a physician, surgeon, or chemist shall be audited and allowed by the county board of commissioners of the proper county, or by the board of county auditors in counties having a board of county auditors.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17406;—CL 1948, 773.4;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 4 of Ch. 167 of R.S. 1846, being CL 1857, § 6092; CL 1871, § 7973; How., § 9586; CL 1897, § 11821; and CL 1915, § 15648.

773.5 Inquest; oath or affirmation to be administered witnesses.

Sec. 5. An oath or affirmation to the following effect shall be administered to each witness by the magistrate: "You do solemnly swear, or affirm, that the evidence you shall give at this inquest, concerning the death of the deceased, shall be the truth, the whole truth, and nothing but the truth".

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17407;—CL 1948, 773.5;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 5 of Ch. 167 of R.S. 1846, being CL 1857, § 6093; CL 1871, § 7974; How., § 9587; CL 1897, § 11822; and CL 1915, § 15649.

773.6 Inquest; recording testimony of witnesses; transcript.

Sec. 6. If there is a suspicion of murder, manslaughter, or assault, the testimony of all witnesses examined

before the inquest shall be recorded by a stenographer or district court recorder. A written transcript of the testimony need not be prepared unless requested by the prosecuting attorney, medical examiner, the magistrate, or a judge of the court in the judicial district in which the offense could be tried.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17408;—CL 1948, 773.6;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 6 of Ch. 167 of R.S. 1846, being CL 1857, § 6094; CL 1871, § 7975; How., § 9588; CL 1897, § 11823; and CL 1915, § 15650.

773.7 Inquisition of jury; contents.

Sec. 7. After hearing the testimony of the witnesses and making all necessary inquiries, the jury shall deliver to the magistrate their inquisition in which the jury shall find and certify when, in what manner, and by what means the deceased came to his or her death, the name of the deceased, if known, and the material circumstances attending the death. If it appears that the deceased came to his or her death by unlawful means, the jury shall state who, if known, is believed to be guilty, either as principal or accessory, or is believed to have been, in any manner, the cause of the death.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17409;—CL 1948, 773.7;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 7 of Ch. 167 of R.S. 1846, being CL 1857, § 6095; CL 1871, § 7976; How., § 9589; CL 1897, § 11824; and CL 1915, § 15651.

773.8 Inquisition of jury; form.

Sec. 8. The inquisition issued by the jury may be in the following form:

County of _____, ss.

An inquisition taken at _____, in this county, on the _____ day of _____, before _____, a magistrate, by the oaths of the jurors whose names are subscribed, who being sworn to inquire on behalf of the people of this state, when, in what manner, and by what means _____ (or, the unknown deceased person) came to his or her death, upon their oaths, say (insert when, where, in what manner, and by what means, persons, weapons, or instruments the deceased was killed or came to his or her death.) In testimony of which the magistrate and the jurors of this inquest have signed their names.

_____ (Day and year)

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17410;—CL 1948, 773.8;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 8 of Ch. 167 of R.S. 1846, being CL 1857, § 6096; CL 1871, § 7977; How., § 9590; CL 1897, § 11825; and CL 1915, § 15652.

773.9 Returning inquisition, physical evidence, and transcript to circuit court or recorder's court if jury finds murder, manslaughter, or assault committed.

Sec. 9. If the jury finds that a murder, manslaughter, or assault was committed upon the deceased, the magistrate immediately shall return to the circuit court in the county or to the recorder's court of the city of Detroit if the offense was committed within the jurisdiction of that court, the inquisition, any physical evidence, and the transcript, if requested under section 6 of this chapter, of the testimony given and proceedings held before the magistrate.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17411;—CL 1948, 773.9;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 9 of Ch. 167 of R.S. 1846, being CL 1857, § 6097; CL 1871, § 7978; How., § 9591; CL 1897, § 11826; and CL 1915, § 15653.

773.10 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed section pertained to warrants.

773.11 Expenses and fees of inquest; payment.

Sec. 11. The expenses and fees of the inquest shall be paid from the general fund of the county in which the inquisition was taken. When an inquest is held for a person who died in a prison or public reformatory of this state, the expense of the inquest shall be audited and paid by the institution, in the same manner as other charges against the institution are audited and paid.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17413;—CL 1948, 773.11;—Am. 1965, Act 315, Eff. Mar. 31, 1966;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 11 of Ch. 167 of R.S. 1846, being CL 1857, § 6099; CL 1871, § 7980; How., § 9593; CL 1897, § 11828; and CL 1915, § 15655.

773.12-773.14 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to inquests.

773.15 Complaint concerning deceased person buried in judicial district; request of prosecuting attorney or medical examiner; examination of complainant who knows or has good reason to believe deceased person came to death by means of poison or violence or in consequence of criminal act; postmortem examination; disinterment.

Sec. 15. (1) Upon presentation to a magistrate of a written request of the prosecuting attorney or the medical examiner and a written complaint under oath stating that a deceased person is buried in the magistrate's judicial district, specifying in what township or city the person is buried, and stating that the complainant knows or has good reason to believe that the deceased person came to his or her death by means of poison or violence, or in consequence of a criminal act, the magistrate shall examine, under oath, the complainant and any witnesses which the complainant produces. The testimony of the complainant and any witnesses shall be recorded by a stenographer or district court recorder.

(2) If the magistrate is satisfied from the examination that there is just cause to believe that the deceased person named or described in the complaint came to his or her death by means of poison or violence, or in consequence of a criminal act, and that a postmortem examination of the body of the deceased person is necessary or will materially aid in the prosecution of a person charged or who may be charged with a criminal act resulting in the death of the deceased person, the magistrate shall issue an order to the sheriff of the county, commanding the sheriff, in the name of the people of the state, to proceed to the place where the body is buried, and to disinter and remove the body to the county morgue or some suitable and convenient place in the county for the purpose of holding a postmortem examination.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17417;—CL 1948, 773.15;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 1 of Act 57 of 1873, being How., § 9598; CL 1897, § 11833; and CL 1915, § 15660.

773.16 Inquest by justice of the peace; body once buried; reinterment.

Sec. 16. As soon as the inquest shall have been completed, as provided for in the preceding section, the sheriff shall at once cause the body of the deceased person to be reinterred in the same place from whence he removed the same.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17418;—CL 1948, 773.16.

Former law: See section 2 of Act 57 of 1873, being How., § 9599; CL 1897, § 11834; and CL 1915, § 15661.

773.17 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed section pertained to property of value found on body of unknown deceased person.

773.18 Property of value found on unknown decedent; deposit with county treasurer; ultimate disposition, time.

Sec. 18. It shall be the duty of said county clerk to deposit the same with the county treasurer, who shall safely keep said money or property for the period of 2 years from the time of receiving the same, unless the same shall be called for by the heirs or proper representatives of the deceased person, in which case the said money or valuable property shall be delivered to them, but if at the expiration of said 2 years no demand for the same shall have been made, said county treasurer shall sell the same in such manner and after such notice as is required by law for constable sales, and shall within 10 days thereafter pay into the state treasury all the proceeds to be credited to the general fund of the state.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17420;—CL 1948, 773.18.

Former law: See section 2 of Act 84 of 1883, being How., § 9599b; CL 1897, § 11836; and CL 1915, § 15663.

773.19-773.21 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to certain kinds of death requiring notice to coroner, right to remove body, property found on decedent, and coroner's inquest.

773.22 Violation of chapter; misdemeanor, penalty.

Sec. 22. Any persons who shall fail to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine not to exceed 100 dollars or to be imprisoned in the county jail for a period not to exceed 90 days or both.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17424;—CL 1948, 773.22.

Former law: See section 3 of Act 84 of 1883, being How., § 9599c; CL 1897, § 11837; CL 1915, § 15664; and section 6 of Act 248

of 1921.

773.23 Effect on prior acts.

Sec. 23. Nothing herein contained shall be construed to repeal any of the provisions of Act 345 of the Public Acts of 1919, or any acts amendatory or supplementary thereto.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17425;—CL 1948, 773.23.

Compiler's note: For provisions of act 345 of 1919, referred to in this section, see MCL 52.111 et seq.