



## Ohio Revised Code

### Section 2335.061 Testimony of coroner or deputy coroner; fees.

Effective: September 29, 2011

Legislation: House Bill 153 - 129th General Assembly

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(A) As used in this section:

(1) "Coroner" has the same meaning as in section 313.01 of the Revised Code, and includes the following:

(a) The coroner of a county other than a county in which the death occurred or the dead human body was found if the coroner of that other county performed services for the county in which the death occurred or the dead human body was found;

(b) A medical examiner appointed by the governing authority of a county to perform the duties of a coroner set forth in Chapter 313. of the Revised Code.

(2) "Deposition fee" means the amount derived by multiplying the hourly rate by the number of hours a coroner or deputy coroner spent preparing for and giving expert testimony at a deposition in a civil action pursuant to this section.

(3) "Deputy coroner" means a pathologist serving as a deputy coroner.

(4) "Expert testimony" means testimony given by a coroner or deputy coroner as an expert witness pursuant to this section and the Rules of Evidence.

(5) "Fact testimony" means testimony given by a coroner or deputy coroner regarding the performance of the duties of the coroner as set forth in Chapter 313. of the Revised Code. "Fact testimony" does not include expert testimony.

(6) "Hourly rate" means the compensation established in sections 325.15 and 325.18 of the Revised Code for a coroner without a private practice of medicine at the class 8 level for calendar year 2001 and thereafter, divided by two thousand eighty.



(7) "Testimonial fee" means the amount derived by multiplying the hourly rate by six and multiplying the product by the number of hours that a coroner or deputy coroner spent preparing for and giving expert testimony at a trial or hearing in a civil action pursuant to this section.

(B)(1) A party may subpoena a coroner or deputy coroner to give expert testimony at a trial, hearing, or deposition in a civil action only upon filing with the court a notice that includes all of the following:

(a) The name of the coroner or deputy coroner whose testimony is sought;

(b) A brief statement of the issues upon which the party seeks expert testimony from the coroner or deputy coroner;

(c) An acknowledgment by the party that the giving of expert testimony by the coroner or deputy coroner at the trial, hearing, or deposition is governed by this section and that the party will comply with all of the requirements of this section;

(d) A statement of the obligations of the coroner or deputy coroner under division (C) of this section.

(2) The notice under division (B)(1) of this section shall be served together with the subpoena.

(C) A party that obtains the expert testimony of a coroner or deputy coroner at a trial, hearing, or deposition in a civil action pursuant to division (B) or (D) of this section shall pay to the treasury of the county in which the coroner or deputy coroner holds office or is appointed or employed a testimonial fee or deposition fee, whichever is applicable, within thirty days after receiving the statement described in this division. Upon the conclusion of the coroner's or deputy coroner's expert testimony, the coroner or deputy coroner shall file a statement with the court on behalf of the county in which the coroner or deputy coroner holds office or is appointed or employed showing the fee due and how the coroner or deputy coroner calculated the fee. The coroner or deputy coroner shall serve a copy of the statement on each of the parties.



(D) For good cause shown, the court may permit a coroner or deputy coroner who has not been served with a subpoena under division (B) of this section to give expert testimony at a trial, hearing, or deposition in a civil action. Unless good cause is shown, the failure of a party to file with the court the notice described in division (B)(1) of this section prohibits the party from having a coroner or deputy coroner subpoenaed to give expert testimony at a trial, hearing, or deposition in a civil action or from otherwise calling the coroner or a deputy coroner to give expert testimony at a trial, hearing, or deposition in a civil action.

(E) In the event of a dispute as to the contents of the notice filed by a party under division (B) of this section or as to the nature of the testimony sought from or given by a coroner or a deputy coroner at a trial, hearing, or deposition in a civil action, the court shall determine whether the testimony sought from or given by the coroner or deputy coroner is expert testimony or fact testimony. In making this determination, the court shall consider all of the following:

- (1) The definitions of "expert testimony" and "fact testimony" set forth in this section;
- (2) All applicable rules of evidence;
- (3) Any other information that the court considers relevant.

(F) Nothing in this section shall be construed to alter, amend, or supersede the requirements of the Rules of Civil Procedure or the Rules of Evidence.