



**House
Legislative
Analysis
Section**

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone: 517/373-6466

NO AUTOPSIES UNLESS PUBLIC NECESSITY

House Bills 4161 and 4162
Sponsor: Rep Maxine Berman
Committee: Public Health

RECEIVED

APR 17 1989

Complete to 2-22-89

Mich. State Law Library

A SUMMARY OF HOUSE BILLS 4161 AND 4162 AS INTRODUCED 2-14-89

House Bill 5567 would amend the Public Health Code to prohibit a county medical examiner from performing an autopsy if the next of kin or a friend of the decedent claimed, or there was otherwise reason to believe, that an autopsy would be contrary to the religious beliefs of the decedent. The only exception would be if an autopsy was required by "a compelling public necessity," including if it were essential to the criminal investigation of a homicide, or the county medical examiner had determined that discovery of the cause of death of the decedent was necessary to meet an immediate and substantial threat to the public health. If neither of these situations existed, but the county coroner still believed that there was a "compelling public necessity," for an autopsy, then the coroner or a local health officer could apply -- as soon as practicable -- to the circuit court for an authorization order for an autopsy. The proceeding would have preference over all other cases in the court and would be determined summarily upon the petition and oral or written proof offered by the parties. If the petition was denied, and no stay was granted by the court, the body would be immediately released for burial to the surviving relative or friend.

If the relative or friend objected and the coroner believed there was a "compelling public necessity" (relative to a criminal investigation or a public health threat) an autopsy could be performed after notice of the intent to perform the autopsy was given to the surviving relative or friend, or when 48 hours had elapsed, whichever was longer. The court could dispense with the waiting period upon ex parte motion if it determined that the delay could prejudice the accuracy of the autopsy, or that the objecting party was a suspect in the homicide of the decedent. An objecting party could, however, institute legal proceedings to have a court determine the propriety of the autopsy. To be eligible to act as the friend of a decedent under the bill, the objecting party would be required to present an affidavit to the individual requesting the autopsy at the time of the objection, or as soon as practicable after the objection. The affidavit would state the facts and circumstances upon which the individual claimed to be a friend, upon which he or she claimed that the autopsy was contrary to the religious beliefs of the decedent, and that he or she would assume responsibility for the lawful disposition of the body.

All autopsies performed under the provisions of the bill would have to be by the least intrusive procedure consistent with the compelling public necessity.

MCL 333.2855 et al.

House Bill 4162 would amend the county medical examiners act to conform to the changes proposed in House Bill 4161.

MCL 52.205

The bills are tie-barred to each other.