



**House
Legislative
Analysis
Section**

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MANDATORY SIDS AUTOPSIES

**House Bill 4639 (Substitute H-2)
House Bill 4640 as introduced
First Analysis (4-25-89)**

**Sponsor: Rep. Michael Bennane
Committee: Public Health**

RECEIVED

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THE APPARENT PROBLEM:

Sudden Infant Death Syndrome (SIDS, also known as cot or crib death) is usually defined as the sudden and unexpected death of an apparently healthy baby or young child (usually between the ages of three weeks and seven months) which is unexplained by the child's health history and for which a careful autopsy fails to identify an adequate explanation of cause of death. SIDS is the leading cause of death in infants after the first week of life, with approximately 7,000 babies dying of SIDS every year in the United States and between 200 and 300 babies a year in Michigan. Researchers do not know what causes SIDS, though they suspect that there is more than one cause. It is known that SIDS is not caused by suffocation or by vomiting and choking and is not contagious or hereditary. It also occurs among families of all social and economic classes. Because the cause or causes remain unknown, SIDS cannot yet be predicted or prevented.

The County Medical Examiners Act (Public Act 181 of 1953) requires county medical examiners to perform autopsies at state expense under certain circumstances (on people whose deaths were violent, unexpected, medically unattended, the result of an abortion, or which occurred while the person was a prisoner). Until 1974, if the medical examiner did not perform an autopsy on a baby suspected of having died due to SIDS, the baby's parents or legal guardians had to pay for an autopsy if they wanted one done. In 1974, however, the act was amended to require the county medical examiner, upon being notified of the death of unknown causes of a child under two years old, to inform the parents or legal guardians that an autopsy could be performed at state expense if they so desired. Although most babies with a diagnosis of SIDS are autopsied in Michigan (the Department of Public Health estimates 92 percent by 1983), some still are not.

Many people who counsel the parents of SIDS babies report that there are parents who decide not to have an autopsy performed and who later regret their decision and wonder whether there was anything they could have done to prevent their baby's death. At the request of the Southeast Michigan Chapter of the National SIDS Foundation, legislation has been introduced that would require autopsies on all children under two who died suddenly and unexpectedly.

THE CONTENT OF THE BILL:

The bills would amend the county medical examiners act to require an investigation and autopsy if a child under two years of age were suspected of having died from Sudden Infant Death Syndrome (SIDS).

House Bill 4639 (MCL 52.202) would require a county medical examiner with specialized training in SIDS or a registered nurse employed by a local health department who had specialized training in SIDS to investigate the cause and manner of death when someone under two

years of age died suddenly from unknown causes. As part of this investigation, the medical examiner or nurse would be required to investigate the health histories of the child and the mother and any other prenatal history the medical examiner considered relevant. If the baby died outside a medical facility, the medical examiner or nurse also would be required to investigate, "in a timely manner," the place of death.

The county medical examiner also would be required to notify the local law enforcement agency or the state police, and to send a written report of the investigation to the Department of Public Health (DPH).

The training in Sudden Infant Death Syndrome could be conducted by the state or local health department or the county medical examiner's office.

House Bill 4640 (MCL 52.205a). Under current law, if a child under two years of age dies suddenly of unknown causes, the parents or legal guardians can request the county medical examiner to arrange for an autopsy and the costs of the autopsy are paid by the DPH out of funds appropriated for that purpose by the legislature.

House Bill 4640 would require that an autopsy be performed in cases where SIDS is the suspected cause of death and would prohibit the diagnosis of SIDS until an autopsy had been done. The costs of this mandatory autopsy would be paid by the DPH, after the director of the department received the results of the autopsy and a copy of the report required by House Bill 4639, and from funds appropriated by the legislature for this purpose.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bills will result in costs to the state, but the agency does not yet have an estimate of these costs. (4-25-89) The Department of Public Health reports that in past years it has received \$45,000 in appropriations annually to pay for SIDS autopsies, and that in past years the department has turned money back to the general fund at the end of the fiscal year from this account. However, the \$300 per autopsy that the department currently pays is less than the actual costs of performing an autopsy, and testimony before the Public Health Committee suggested that actual costs could range from \$700 to \$1,500 per autopsy. If the bills passed, it is possible that medical examiners would request reimbursement more in line with their actual costs. (It should be pointed out that presently about 90 percent of the approximately 200 annual SIDS deaths already are being autopsied, so the number of mandated autopsies would not be significantly greater than the present optional SIDS autopsies.) In addition, by mandating expenses to be covered by county medical examiners' offices (death scene investigations, as well as autopsies), the bills likely will trigger the so-called "Headlee" provisions (which require

H.B. 4639 & 4640 (4-24-89)

that the state pay for any costs it requires that local units of government incur). (4-25-89)

ARGUMENTS:

For:

The sudden, unexpected death of an apparently healthy baby is doubly traumatic for the baby's parents, for not only do they grieve the loss of their child, they also wonder what they could have done to prevent the baby's death. Although nothing can ever replace a child who has died, the diagnosis of Sudden Infant Death Syndrome can help parents deal with the guilt that accompanies the grief experienced. However, when a baby dies suddenly and unexpectedly, parents sometimes are so emotionally traumatized that they cannot face the added burden of deciding to have an autopsy, the only means of diagnosing SIDS, performed. As several parents of SIDS babies testified, they later regretted not having an autopsy done, for they now wonder whether there was anything they could have done to prevent their baby's death. The bills would help alleviate the suffering of these parents by helping reassure them that with a diagnosis of SIDS (which, technically, can be made only after a thorough autopsy) they were not at fault and could not have prevented the baby's death.

For:

A mandatory autopsy, coupled with a mandatory investigation of the circumstances surrounding the unexpected death of a child under two, not only is important in relieving parents of the added burden of decision at a time of intense emotional upheaval; it also would provide valuable standardized data to further research efforts in determining the causes of this devastating syndrome. Hopefully, once the causes have been discovered, SIDS deaths then can be prevented.

For:

Investigation and autopsy also can help parents and professionals in those cases where the baby apparently died of SIDS, but in fact died of preventable causes. For example, testimony before the Public Health Committee described autopsies of suspected SIDS deaths that in fact turned out to be from other causes. One baby had died of carbon monoxide poisoning due to a faulty heater, clearly a preventable — or at least correctable — situation. Another suspected SIDS baby was discovered, upon autopsy, to have died from what is called "shaken baby syndrome," a preventable form of child abuse. If preventable causes of infant death can be discovered, then future preventive efforts — in the same or other families — can be taken, possibly saving other babies' lives.

Against:

Not only are the bills not needed for research purposes (since reportedly 90 percent of the babies dying suddenly and unexpectedly already are being autopsied), they would mandate unwarranted and offensive intrusions into the private lives of people at a time when they are particularly emotionally vulnerable.

Notifying the police and investigating parents immediately after their baby has died of SIDS is a callous and unfeeling intrusion at a time when the family may just want to be left alone to grieve. What is worse, such actions also raise the suggestion that perhaps the parents were responsible for their baby's death. Requiring an autopsy may go

against some parents' personal wishes (they may not wish to have their child "cut up," as one mother testified) or religious beliefs. The state should stay out of these highly personal family tragedies unless invited in by the families themselves (as is already possible under the law).

Even though the bills might help some parents feel better, they might also make some parents feel worse. And as much as some parents might later regret not having had an autopsy done, there are many decisions that parents must make that they have to take responsibility for, even if they later wish that they had made other decisions. Yet this does not mean that the state should step in and take away parents' decision-making power. Rather than mandate autopsies in all cases of infant death, perhaps making counseling of the grieving parents more accessible and available after a baby dies could help some parents feel fewer later regrets over their decision whether or not to have an autopsy performed. At the very least, parents who object to autopsies on religious grounds should be exempted from the bills' provisions.

Finally, the bills are not needed, even for the gathering of research information. The standard autopsy that is done is not likely to lead to new breakthroughs in SIDS research, and there are parts of the state in which it might be difficult or impossible to obtain the services of a qualified pathologist to do the autopsy.

Response: The investigation (which now is optional) is not a criminal investigation and can provide both parents and health care professionals with valuable information, possibly even preventing future needless deaths. In addition, as several parents who had refused autopsies testified, they now wish that they had had autopsies performed. They had nothing to hide and much peace of mind to gain if SIDS could definitively be diagnosed as cause of death. When such autopsies and investigations result in a diagnosis of SIDS, they can remove parents' self doubts and others' suspicions about the parents' conduct.

Currently, a diagnosis of SIDS can be made without an autopsy being performed. Reportedly, there are cases of babies who die at home who are not pronounced dead until they arrive at the emergency room, so that the official place of death is not home but the hospital.

Against:

By mandating additional autopsies, death scene investigations, and reports, the bills not only will impose additional burdens on county medical examiners (while taking away some of their discretionary power), they also will result in additional costs to counties, which could trigger the Headlee provisions. Although the state already pays for optional autopsies (at the parents' request) of young children who die suddenly and unexpectedly, the state payment of \$300 for an autopsy falls far short of the \$700 to \$1,500 that it actually costs to perform autopsies. By mandating what is now optional, the bills likely will result in the state having to pay the full costs of such autopsies, as well as the counties paying for the death scene investigations and required reports. At the very least, the bills should be tie-barred to an appropriations bill that would pay for the resulting costs.

POSITIONS:

The Department of Public Health has not yet taken a position on the bills. (4-21-89)

The Wayne County Sudden Infant Death Syndrome Center supports the bills. (4-20-89)

The Southeast Michigan Chapter of the National Sudden Infant Death Syndrome Foundation (NSIDSF) supports the bills. (4-20-89)

The Grand Rapids Area Chapter of NSIDSF supports the bills. (4-20-89)

The County Medical Examiners Association does not support the bills. (4-20-89)