

SUBSTITUTE FOR  
HOUSE BILL NO. 5238

A bill to amend 1953 PA 181, entitled

"An act relative to investigations in certain instances of the causes of death within this state due to violence, negligence or other act or omission of a criminal nature or to protect public health; to provide for the taking of statements from injured persons under certain circumstances; to abolish the office of coroner and to create the office of county medical examiner in certain counties; to prescribe the powers and duties of county medical examiners; to prescribe penalties for violations of the provisions of this act; and to prescribe a referendum thereon,"

by amending sections 2, 3, and 5 (MCL 52.202, 52.203, and 52.205), section 5 as amended by 1980 PA 401, and by adding section 5b.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2. (1) ~~County~~ A COUNTY medical ~~examiners~~ EXAMINER  
2 or deputy county medical ~~examiners~~ EXAMINER shall ~~make inves-~~  
3 ~~tigations as to~~ INVESTIGATE the cause and manner of death in  
4 ~~all~~ EACH OF THE FOLLOWING cases: ~~of persons who have come to~~  
5 ~~their death~~

**HB5238, As Passed House, November 12, 1998**

House Bill No. 5238

2

1 (A) THE CASE OF A PERSON WHO HAS DIED by violence. ~~or~~

2 (B) THE CASE OF A PERSON whose death was unexpected. ~~or~~

3 (C) THE CASE OF A PERSON WHO HAS DIED without medical

4 attendance during the 48 hours ~~prior to~~ IMMEDIATELY PRECEDING

5 the hour of death, unless the attending physician, if any, is

6 able to ACCURATELY determine ~~accurately~~ the cause of death. ~~or~~

7 ~~or~~

8 (D) THE CASE OF A PERSON WHO HAS DIED as the result of

9 HAVING an abortion, whether self-induced or otherwise.

10 (E) THE CASE OF A PERSON WHO HAS DIED AS A RESULT OF 1 OR

11 MORE INJURIES SUSPECTED TO HAVE BEEN CAUSED BY A FIRE.

12 (2) If ~~any~~ A prisoner in ~~any~~ A county or city jail dies

13 while ~~so~~ imprisoned, the county medical examiner, upon being

14 notified of the death of the prisoner, shall ~~make an examination~~

15 ~~upon~~ EXAMINE the body of the deceased prisoner.

16 Sec. 3. ~~Any physician and any~~ A PHYSICIAN, A person in

17 charge of ~~any~~ A hospital or ~~institution~~ OTHER HEALTH

18 FACILITY, or ~~any~~ ANOTHER person who ~~shall have~~ HAS first

19 knowledge of ~~the~~ 1 OR MORE OF THE FOLLOWING SHALL IMMEDIATELY

20 NOTIFY THE COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY MEDICAL

21 EXAMINER OF THAT FACT:

22 (A) THE death of ~~any~~ A person who ~~shall have~~ died sud-

23 denly, unexpectedly, accidentally, violently, or as the result of

24 ~~any~~ suspicious circumstances. ~~, or~~

25 (B) A PERSON WHO DIED AS A RESULT OF 1 OR MORE INJURIES SUS-

26 PECTED TO HAVE BEEN CAUSED BY A FIRE.

**HB5238, As Passed House, November 12, 1998**

House Bill No. 5238

3

1 (C) A PERSON WHO DIED without medical attendance during the  
2 48 hours ~~prior to~~ IMMEDIATELY PRECEDING the hour of death,  
3 unless the attending physician, if any, is able to determine  
4 accurately the cause of death. ~~, or in any~~

5 (D) A case of death due to what is commonly known as an  
6 abortion, whether self-induced or otherwise. ~~, shall notify the~~  
7 ~~county medical examiner or his deputy immediately of the death.~~

8 Sec. 5. (1) ~~When~~ IF a county medical examiner OR DEPUTY  
9 COUNTY MEDICAL EXAMINER has notice that ~~there has been found~~  
10 ~~within his or her county or district~~ the body of a person who  
11 ~~is supposed to have come to his or her death~~ MAY HAVE DIED in a  
12 manner ~~as indicated~~ DESCRIBED in section 3 HAS BEEN FOUND  
13 WITHIN THE COUNTY MEDICAL EXAMINER'S GEOGRAPHICAL JURISDICTION,  
14 the COUNTY medical examiner OR DEPUTY COUNTY MEDICAL EXAMINER  
15 shall take charge of the body. ~~, and if, on view of~~ IF AFTER  
16 EXAMINING the body and ~~personal inquiry into~~ INVESTIGATING the  
17 cause and manner of the death ~~, the~~ COUNTY medical examiner OR  
18 DEPUTY COUNTY MEDICAL EXAMINER considers a further examination  
19 necessary, ~~the county medical examiner or a deputy~~ HE OR SHE  
20 may cause the dead body to be removed to the public morgue. If  
21 the investigation is SOLELY for the reason ~~only~~ that the dead  
22 person had no medical attendance during THE 48 hours ~~before~~  
23 IMMEDIATELY PRECEDING the hour of death, and if the dead person  
24 had chosen not to have medical attendance because of his or her  
25 bona fide held religious convictions, removal ~~shall~~ IS not ~~be~~  
26 required unless there is evidence of other conditions  
27 ~~stipulated~~ DESCRIBED in section 3. If there is no public

**HB5238, As Passed House, November 12, 1998**

House Bill No. 5238

4

1 morgue, ~~then~~ the body may be removed to a private morgue ~~as~~  
2 DESIGNATED BY the county medical examiner ~~has designated~~ OR  
3 DEPUTY COUNTY MEDICAL EXAMINER.

4 (2) The COUNTY medical examiner OR DEPUTY COUNTY MEDICAL  
5 EXAMINER may designate a ~~person~~ MEDICAL EXAMINER INVESTIGATOR  
6 appointed ~~pursuant to~~ UNDER section 1a(2) to take charge of the  
7 body, make pertinent inquiry, note the circumstances surrounding  
8 the death, and, if considered necessary, cause the body to be  
9 transported to the morgue for examination by the COUNTY medical  
10 examiner OR DEPUTY COUNTY MEDICAL EXAMINER. The COUNTY medical  
11 examiner OR DEPUTY COUNTY MEDICAL EXAMINER shall maintain a list  
12 of ~~persons~~ MEDICAL EXAMINER INVESTIGATORS appointed ~~pursuant~~  
13 ~~to~~ UNDER section 1a(2) and their qualifications, ~~which~~ AND  
14 shall ~~be filed~~ FILE THE LIST with the local law enforcement  
15 agencies. ~~The person~~ A MEDICAL EXAMINER INVESTIGATOR appointed  
16 ~~pursuant to~~ UNDER section 1a(2) shall not be an agent or  
17 employee of ~~any~~ A person or funeral establishment licensed  
18 under ~~Act No. 268 of the Public Acts of 1949, as amended, being~~  
19 ~~sections 338.861 to 338.875 of the Michigan Compiled Laws~~ THE  
20 OCCUPATIONAL CODE, 1980 PA 299, MCL 339.101 TO 339.2721, receive,  
21 directly or indirectly, ~~any~~ remuneration in connection with the  
22 disposition of the body, or make ~~any~~ funeral or burial arrange-  
23 ments without approval of the next of kin, if ~~they are found~~  
24 KNOWN, or the person responsible for the funeral expenses.

25 (3) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN SECTION 5B, THE  
26 county medical examiner may perform or direct to be performed an  
27 autopsy and shall carefully reduce or cause to be reduced to

**HB5238, As Passed House, November 12, 1998**

House Bill No. 5238

5

1 writing ~~every~~ EACH fact and circumstance tending to show the  
2 condition of the body and the cause and manner of death,  
3 ~~together with~~ AND SHALL INCLUDE IN THAT WRITING the names and  
4 addresses of ~~any persons~~ EACH PERSON present at the autopsy.  
5 ~~, which record he or she shall subscribe.~~ THE PERSON PERFORMING  
6 THE AUTOPSY SHALL SUBSCRIBE THE WRITING DESCRIBED IN THIS  
7 SUBSECTION.

8       (4) EXCEPT AS OTHERWISE PROVIDED IN SECTION 5B, UPON RECEIPT  
9 OF A WRITTEN REQUEST FROM A LAW ENFORCEMENT AGENCY OR PROSECUTING  
10 ATTORNEY INVESTIGATING THE DEATH OF AN INDIVIDUAL WHO DIED AS A  
11 RESULT OF 1 OR MORE INJURIES SUSPECTED TO HAVE BEEN CAUSED BY A  
12 FIRE, THE COUNTY MEDICAL EXAMINER OR HIS OR HER DESIGNEE MAY PER-  
13 FORM AN AUTOPSY UPON THE BODY OF THE INDIVIDUAL. IF THE COUNTY  
14 MEDICAL EXAMINER DOES NOT PERFORM OR ORDER THE PERFORMANCE OF AN  
15 AUTOPSY PURSUANT TO A REQUEST RECEIVED UNDER THIS SUBSECTION, THE  
16 COUNTY MEDICAL EXAMINER SHALL EXPLAIN TO THE REQUESTER IN WRITING  
17 WITHIN 48 HOURS OF RECEIVING THE WRITTEN REQUEST FOR THE AUTOPSY  
18 THAT THE DEATH WAS DIRECTLY CAUSED BY FIRE AND THAT AN AUTOPSY  
19 WAS NOT REQUIRED TO DETERMINE OTHER POSSIBLE CAUSES OF DEATH. IF  
20 THE LAW ENFORCEMENT AGENCY OR PROSECUTING ATTORNEY BELIEVES THAT  
21 AN AUTOPSY WOULD CONTRIBUTE MATERIALLY TO THE INVESTIGATION, THE  
22 LAW ENFORCEMENT AGENCY OR PROSECUTING ATTORNEY MAY FILE A PETI-  
23 TION WITH A COURT OF COMPETENT JURISDICTION FOR A REVIEW OF THE  
24 COUNTY MEDICAL EXAMINER'S DECISION NOT TO PERFORM AN AUTOPSY. A  
25 LAW ENFORCEMENT AGENCY OR PROSECUTING ATTORNEY MUST FILE A PETI-  
26 TION UNDER THIS SUBSECTION WITHIN 24 HOURS AFTER RECEIVING ORAL  
27 OR WRITTEN NOTICE OF THE COUNTY MEDICAL EXAMINER'S DECISION NOT

**HB5238, As Passed House, November 12, 1998**

House Bill No. 5238

6

1 TO PERFORM THE AUTOPSY OR WITHIN 24 HOURS AFTER THE COUNTY  
2 MEDICAL EXAMINER FAILS TO RESPOND WITHIN THE 48-HOUR TIME LIMIT.  
3 THE COURT IN WHICH THE PETITION IS FILED SHALL HOLD A HEARING ON  
4 THE PETITION WITHIN 48 HOURS AFTER THE PETITION IS FILED. IF THE  
5 COURT DETERMINES THAT AN AUTOPSY WOULD CONTRIBUTE MATERIALLY TO  
6 THE INVESTIGATION, THE COURT SHALL ORDER THE COUNTY MEDICAL  
7 EXAMINER TO PERFORM THE AUTOPSY IMMEDIATELY AND TO TRANSMIT THE  
8 RESULTS OF THE AUTOPSY TO THE PETITIONER WITHIN 24 HOURS AFTER  
9 THE AUTOPSY IS PERFORMED AND ALL NECESSARY TESTS ARE COMPLETED.

10 (5) ~~-(4)-The~~ EXCEPT AS PROVIDED IN SUBSECTION (6), THE  
11 COUNTY medical examiner OR DEPUTY COUNTY MEDICAL EXAMINER shall  
12 ascertain the identity of the deceased and ~~notify~~ immediately  
13 AND as compassionately as possible NOTIFY the next of kin of the  
14 DECEDENT'S death and the location of the body. ~~except that such~~

15 (6) THE notification DESCRIBED IN SUBSECTION (5) is not  
16 required if a person from the state police or a ~~county sheriff~~  
17 ~~department or a township police department or a municipal police~~  
18 ~~department~~ LOCAL LAW ENFORCEMENT AGENCY states to the COUNTY  
19 medical examiner that the notification has already occurred. The  
20 county medical examiner may conduct an autopsy UNDER SUBSECTION  
21 (3) if he or she determines that an autopsy reasonably appears to  
22 be required pursuant to law. ~~After~~ EXCEPT AS OTHERWISE PRO-  
23 VIDED IN SECTION 5B, AFTER the county medical examiner or a  
24 ~~deputy or a~~ person from the state police or a ~~county sheriff~~  
25 ~~department or a township police department or a municipal police~~  
26 ~~department~~ LOCAL LAW ENFORCEMENT AGENCY has made diligent effort  
27 to locate and notify the next of kin, ~~he or she~~ THE COUNTY

**HB5238, As Passed House, November 12, 1998**

House Bill No. 5238

7

1 MEDICAL EXAMINER may order and conduct the autopsy with or  
2 without the consent of the next of kin of the deceased.

3       (7) ~~-(5)-~~ The county medical examiner or ~~-a-~~ HIS OR HER  
4 deputy shall keep a written record of the efforts to locate and  
5 notify the next of kin for a period of 1 year from the date of  
6 the autopsy. ~~The county medical examiner shall, after any~~  
7 AFTER A required examination or autopsy, THE COUNTY MEDICAL  
8 EXAMINER SHALL promptly deliver or return the body to relatives  
9 or representatives of the deceased. ~~-or, if-~~ IF there are no  
10 relatives or representatives OF THE DECEASED known to the COUNTY  
11 MEDICAL examiner, he or she may cause the body to be ~~-decently-~~  
12 buried ~~-, except that the medical examiner-~~ PURSUANT TO LAW, BUT  
13 may retain, as long as ~~-may be-~~ HE OR SHE DETERMINES necessary,  
14 ~~-any-~~ A portion of the body believed by the COUNTY medical  
15 examiner to be necessary for the detection of ~~-any-~~ A crime.

16       SEC. 5B. (1) SUBJECT TO SUBSECTION (2), A COUNTY MEDICAL  
17 EXAMINER OR DEPUTY COUNTY MEDICAL EXAMINER SHALL NOT PERFORM AN  
18 AUTOPSY ON THE BODY OF A DECEASED PERSON IF A RELATIVE OR FRIEND  
19 OF THE DECEASED PERSON INFORMS THE COUNTY MEDICAL EXAMINER OR  
20 DEPUTY COUNTY MEDICAL EXAMINER THAT AN AUTOPSY WOULD BE CONTRARY  
21 TO THE DECEASED PERSON'S RELIGIOUS BELIEFS.

22       (2) A COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY MEDICAL  
23 EXAMINER MAY PERFORM AN AUTOPSY UNDER THE CIRCUMSTANCES DESCRIBED  
24 IN SUBSECTION (1) IF THE COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY  
25 MEDICAL EXAMINER DETERMINES THAT THERE IS A COMPELLING PUBLIC  
26 NECESSITY FOR THE AUTOPSY. IF THE COUNTY MEDICAL EXAMINER OR  
27 DEPUTY COUNTY MEDICAL EXAMINER DETERMINES THAT THERE IS A

**HB5238, As Passed House, November 12, 1998**

House Bill No. 5238

8

1 COMPELLING PUBLIC NECESSITY FOR THE AUTOPSY, HE OR SHE SHALL NOT  
2 PERFORM THE AUTOPSY FOR A PERIOD OF 48 HOURS AFTER MAKING THE  
3 DETERMINATION OF COMPELLING PUBLIC NECESSITY. A COMPELLING  
4 PUBLIC NECESSITY EXISTS FOR THE PURPOSES OF THIS SECTION IF  
5 EITHER OF THE FOLLOWING CIRCUMSTANCES EXISTS:

6 (A) AN AUTOPSY IS NECESSARY FOR THE CONDUCT OF A CRIMINAL  
7 INVESTIGATION BY A LAW ENFORCEMENT AGENCY.

8 (B) AN AUTOPSY IS NECESSARY TO DETERMINE THE CAUSE OF THE  
9 DECEASED PERSON'S DEATH IN ORDER TO PROTECT AGAINST AN IMMEDIATE  
10 AND SUBSTANTIAL THREAT TO THE PUBLIC HEALTH.

11 (3) DURING THE 48-HOUR PERIOD DESCRIBED IN SUBSECTION (2), A  
12 RELATIVE OR FRIEND DESCRIBED IN SUBSECTION (1) MAY PETITION A  
13 COURT OF COMPETENT JURISDICTION TO ENJOIN THE AUTOPSY. THE RELA-  
14 TIVE OR FRIEND SHALL INFORM THE COUNTY MEDICAL EXAMINER OR DEPUTY  
15 COUNTY MEDICAL EXAMINER IN WRITING OF THE PETITION. THE COURT IN  
16 WHICH THE PETITION IS FILED SHALL CONDUCT A HEARING ON THE MATTER  
17 WITHIN 48 HOURS OF THE FILING OF THE PETITION. IF THE COURT  
18 FINDS THAT THERE IS A COMPELLING PUBLIC NECESSITY, THE COURT  
19 SHALL ALLOW THE COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY MEDICAL  
20 EXAMINER TO PERFORM THE AUTOPSY. A COUNTY MEDICAL EXAMINER OR  
21 DEPUTY COUNTY MEDICAL EXAMINER WHO PERFORMS AN AUTOPSY UNDER THIS  
22 SECTION SHALL USE THE LEAST INTRUSIVE PROCEDURES ALLOWED UNDER  
23 THE CIRCUMSTANCES.