

SUBSTITUTE FOR
HOUSE BILL NO. 5417

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 2855a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2855A. (1) A PERSON SHALL NOT RELEASE OR MAKE PUBLIC
2 AN AUTOPSY PHOTOGRAPH OF A DECEDENT THAT IDENTIFIES THE DECEDENT
3 BY NAME, FACE, OR OTHER IDENTIFYING PHYSICAL FEATURE UNLESS 1 OF
4 THE FOLLOWING CONDITIONS IS MET:

5 (A) ONE OF THE FOLLOWING PERSONS SPECIFICALLY PROVIDES WRIT-
6 TEN AUTHORIZATION FOR THE RELEASE OR PUBLICATION:

7 (i) THE DECEDENT'S PARENT, SURVIVING SPOUSE, GUARDIAN, PER-
8 SONAL REPRESENTATIVE, OR NEXT OF KIN.

9 (ii) IF A PERSON DESCRIBED IN SUBPARAGRAPH (i) CANNOT BE
10 IDENTIFIED OR LOCATED FOLLOWING A DILIGENT AND GOOD FAITH EFFORT
11 TO IDENTIFY OR LOCATE HIM OR HER, AN INDIVIDUAL CHARGED BY LAW

HB5417, As Passed House, May 27, 1998

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1 WITH THE RESPONSIBILITY FOR BURIAL OR CREMATION OF THE DECEDENT'S
2 BODY.

3 (B) THE RELEASE OR PUBLICATION IS 1 OF THE FOLLOWING:

4 (i) UPON WRITTEN AUTHORIZATION BY THE PROSECUTING ATTORNEY
5 HAVING JURISDICTION FOR A PURPOSE DIRECTLY RELATED TO THE INVES-
6 TIGATION OR PROSECUTION OF A CRIMINAL CASE.

7 (ii) AUTHORIZED BY A COURT OF APPROPRIATE JURISDICTION FOR A
8 PURPOSE DIRECTLY RELATED TO THE PROCEEDINGS IN A CIVIL CASE.

9 (iii) REQUIRED FOR A HEALTH DEPARTMENT TO CARRY OUT ITS
10 LAWFUL DUTIES.

11 (iv) NECESSARY FOR THE LEGITIMATE TEACHING OF ONLY MEDICAL
12 OR PUBLIC HEALTH OFFICIALS.

13 (2) A DECEDENT'S PARENT, SURVIVING SPOUSE, GUARDIAN, PER-
14 SONAL REPRESENTATIVE, OR NEXT OF KIN WHO IS INJURED AS A RESULT
15 OF A VIOLATION OF THIS SECTION MAY BRING AN ACTION TO RECOVER
16 \$1,000.00 OR ACTUAL DAMAGES, WHICHEVER IS GREATER, PLUS COSTS AND
17 REASONABLE ATTORNEY FEES.

18 (3) AS USED IN THIS SECTION:

19 (A) "AUTOPSY PHOTOGRAPH" MEANS AN IMAGE OF A DECEDENT
20 OBTAINED DURING AN AUTOPSY OF THAT DECEDENT IN THIS STATE, AND
21 INCLUDES AN IMAGE ON VIDEOTAPE, MOTION PICTURE OR OTHER FILM, OR
22 AN IMAGE CAPTURED BY DIGITAL MEANS.

23 (B) "DECEDENT" MEANS A DEAD HUMAN BEING.