



**House
Legislative
Analysis
Section**

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**BAN RELEASE OF DECEASED
PERSON'S PHOTOGRAPH**

House Bill 4249

Sponsor: Rep. John Gleason

Committee: Judiciary

Complete to 3-28-03

A SUMMARY OF HOUSE BILL 4249 AS INTRODUCED 2-18-03

The bill would add a new section to Part 28 of the Public Health Code (MCL 333.2855a), concerning vital records, to prohibit the release of an "autopsy photograph". (The bill would define "autopsy photograph" as an image of a deceased human being obtained during the person's autopsy, including an image on videotape, motion picture or other file, or an image captured by digital means.)

Prohibited Activity. The bill would specify that a person could not release or make public an autopsy photograph of a dead person that identified the person by name, face, or other identifying physical feature unless one of the following conditions was met:

- One of the following persons specifically provided written authorization for the release or publication: the deceased's parent, surviving spouse, guardian, personal representative, or next of kin; or, if none of these persons could be identified or located following a diligent and good faith effort to identify or locate them, an individual charged by law with the responsibility for burying or cremating the body.

- The release or publication was one of the following: 1) upon written authorization by the prosecuting attorney having jurisdiction for a purpose directly related to the investigation or prosecution of a criminal case; 2) authorized by a court of appropriate jurisdiction for a purpose directly related to the proceedings in a civil case; 3) required for a health department to carry out its lawful duties; or 4) necessary for the legitimate teaching of only medical or public health officials.

Remedy. The bill would also specify that a deceased person's parent, surviving spouse, guardian, personal representative, or next of kin who had been injured as a result of a violation of these provisions could bring an action to recover \$1,000 or actual damages, whichever was greater, plus costs and reasonable attorney fees.

Analyst: J. Caver

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