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BILL



ANALYSIS

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Senate Bill 26 (as introduced 1-21-03)

Sponsor: Senator Valde Garcia

Committee: Health Policy

Date Completed: 11-4-03

CONTENT

The bill would amend Public Act 181 of 1953, which governs county medical examiners, to do the following:

- **Require a county medical examiner (CME) to investigate a death resulting from injuries suspected to have been caused by a fire.**
- **Allow a county medical examiner to perform an autopsy upon the request of a law enforcement agency or prosecuting attorney investigating a death suspected to have been caused by a fire; allow a law enforcement agency or prosecutor to petition the court to review a CME's decision not to comply with the request; and require the court to order the CME to perform the autopsy if it would contribute materially to the investigation.**
- **Prohibit a county medical examiner from performing an autopsy if the next of kin informed him or her that it would be contrary to the deceased's religious beliefs.**
- **Allow a CME to conduct an autopsy despite religious objections if there were a compelling public necessity; allow the next of kin to petition a court to enjoin the autopsy; and require the court to allow the CME to perform the autopsy if it found compelling public necessity.**

The bill is described below in further detail.

Fire-Related Death: Investigation

The Act requires a county medical examiner or deputy CME to investigate the cause and manner of death in the case of an individual:

- Who has died by violence.
- Whose death was unexpected.
- Who died without medical attendance during the 48 hours immediately preceding the time of death, unless the attending physician, if any, is able to determine accurately the time of death.
- Who has died as the result of an abortion, whether self-induced or otherwise.

The bill also would require a CME or deputy CME to investigate the death of an individual who had died as a result of one or more injuries suspected to have been caused by a fire.

In addition, the bill would require a physician, an individual in charge of a hospital or other health facility, or another person who had first knowledge of an individual who died as a result of injuries suspected to have been caused by a fire, immediately to notify the county medical examiner or deputy CME of that fact.

Fire-Related Death: Autopsy

Under the bill, a county medical examiner or his or her designee could perform an autopsy upon

the body of an individual who had died as a result of injuries suspected to have been caused by a fire, upon receiving a written request from a law enforcement agency or prosecuting attorney (except as provided for a religious objection). If the CME did not perform or order the performance of the requested autopsy, he or she would have to explain to the requester in writing within 48 hours of receiving the request that the death was directly caused by fire and that an autopsy was not required to determine other possible causes of death.

If the law enforcement agency or prosecuting attorney believed the autopsy would contribute materially to the investigation, the agency or prosecutor could file a petition with a court of competent jurisdiction for a review of the CME's decision. The agency or prosecutor would have to file the petition within 24 hours of receiving oral or written notice of the decision not to perform the autopsy or within 24 hours after the CME failed to respond within the 48-hour time limit.

The court would have to hold a hearing on the petition within 48 hours after it was filed. If the court determined that the autopsy would contribute materially to the investigation, the court would have to order the county medical examiner to perform the autopsy immediately and to transmit the results to the petitioner within 24 hours after it was performed and all necessary tests were completed.

Religious Objection to Autopsy

The bill would prohibit a county medical examiner or deputy CME from performing an autopsy on an individual's body if the next of kin informed him or her that an autopsy would be contrary to the deceased's religious beliefs. (Under the bill, "next of kin" would mean the spouse of a deceased individual or an individual related to the deceased within the third degree of consanguinity as determined by the civil law method.)

The CME or deputy CME could perform the autopsy if he or she determined that there was a compelling public necessity for doing so. He or she could not perform the autopsy for 24 hours after making that determination, during which time the next of kin could petition a court to enjoin it. The next of kin would have to give the CME or deputy written notice of the petition. The court would have to conduct a hearing within 48 hours of the petition's filing. If the court found that there was a compelling public necessity, it would have to allow the CME or deputy CME to perform the autopsy. The person who performed the autopsy would have to use the least intrusive procedures allowed under the circumstances.

The bill specifies that a compelling public necessity would exist if an autopsy were necessary either for the conduct of a criminal investigation by a law enforcement agency, or to determine the cause of a deceased person's death in order to protect against an immediate and substantial threat to the public health.

MCL 52.202 et al.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would have no fiscal impact on State government and an indeterminate fiscal impact on local government. The level of costs incurred by counties due to this bill would depend on the number of fire deaths that are not currently being investigated by medical examiners.

To the extent that the bill would increase the number of required court hearings, it could increase local court costs.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.