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**BILL ANALYSIS**

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Senate Bill 1289 (as reported by the Committee of the Whole)
Sponsor: Senator Tom George
Committee: Judiciary

CONTENT

The bill would amend the Public Health Code to prohibit the "public dissemination" rather than "public display" of autopsy photographs; specify that the prohibition would not apply if the public dissemination were to a law enforcement agency as part of a criminal investigation; and provide that a photograph released under that exception would not be subject to disclosure under the Freedom of Information Act (FOIA).

The Code prohibits a person from displaying an autopsy photograph of a deceased human being that identifies the decedent by name, face, or other identifying physical features. The prohibition does not apply if the public display of an autopsy photo is authorized by a specified individual or is one of the following:

- For a purpose directly related to the investigation or prosecution of a criminal case, upon written authorization by the prosecuting attorney having jurisdiction.
- Authorized by a court for a purpose directly related to the proceedings in a civil case.
- Required for a health department to carry out its lawful duties.
- Necessary for legitimate research or teaching of medical, public health, or public safety personnel or students enrolled at a postsecondary educational institution.

The bill would refer to "public dissemination", rather than "public display", and would add to that list of exemptions dissemination pursuant to a request of a law enforcement agency as part of and directly related to a criminal investigation. An autopsy photograph received by a law enforcement agency for a criminal investigation would be confidential, would not be subject to disclosure under FOIA, and could not be disclosed to any person except for law enforcement purposes.

Currently, "public display" means knowingly to communicate, exhibit, or display in open view or to distribute to members of the public or in a public manner, whether or not for commercial purposes, through any medium of communication including the Internet or a computer, computer network, computer program, or computer system. Under the bill, "public dissemination" also would include disseminating, as well as communicating, exhibiting, displaying, or distributing.

MCL 333.2855a

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

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Fiscal Analyst: Bethany Wicksall

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