

Telephone: (517) 373-5383 Fax: (517) 373-1986 TDD: (517) 373-0543

H.B. 4249 (S-1): FLOOR ANALYSIS

House Bill 4249 (Substitute S-1 as reported by the Committee of the Whole)

Sponsor: Representative John Gleason

House Committee: Judiciary Senate Committee: Judiciary

CONTENT

The bill would amend the Public Health Code to prohibit a person from publicly displaying an autopsy photograph of a deceased human being that identified the decedent by name, face, or other identifying physical features. A decedent's parent, surviving spouse, and children, who were injured as a result of a violation, could bring an action in court to recover \$1,000 or actual damages, whichever was greater, plus costs and reasonable attorney fees. ("Autopsy photograph" would mean an image of a decedent obtained during an autopsy of that decedent in Michigan and would include an image on videotape, motion picture, or other film, or an image captured by digital means. "Public display" would mean knowingly to communicate, exhibit, or display in open view or to distribute publicly, through any medium of communication.)

The prohibition would not apply if one of the following individuals, in descending order of priority if an individual with higher priority could not be identified or located following a diligent and good-faith effort, specifically provided written authorization of the public display of an autopsy photograph: a person nominated by will or other writing signed by the decedent; the decedent's spouse; an adult child of the decedent; a parent of the decedent; the decedent's next of kin; or an individual charged by law with the responsibility for the decedent's burial or cremation.

The prohibition also would not apply if the public display of an autopsy photograph were 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 not apply to an Internet service provider or computer network service provider who, in good faith and without knowledge of the content of the photograph, provided the medium for public display.

The bill would take effect on March 31, 2004.

Proposed MCL 333.2855a Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Date Completed: 12-16-03 Fiscal Analyst: Bethany Wicksall