

SENATE BILL No. 26

January 21, 2003, Introduced by Senators GARCIA, SANBORN, GOSCHKA, CROPSEY and JACOBS and referred to the Committee on Health Policy.

A bill to amend 1953 PA 181, entitled

"An act relative to investigations in certain instances of the causes of death within this state due to violence, negligence or other act or omission of a criminal nature or to protect public health; to provide for the taking of statements from injured persons under certain circumstances; to abolish the office of coroner and to create the office of county medical examiner in certain counties; to prescribe the powers and duties of county medical examiners; to prescribe penalties for violations of the provisions of this act; and to prescribe a referendum thereon,"

by amending sections 2, 3, and 5 (MCL 52.202, 52.203, and 52.205), section 2 as amended by 2001 PA 26 and section 5 as amended by 1980 PA 401, and by adding section 5b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) A county medical examiner or deputy county
2 medical examiner shall investigate the cause and manner of death
3 under each of the following circumstances:

4 (a) The case of an individual who has died by violence.

5 (b) The case of an individual whose death was unexpected.

1 (c) The case of an individual who died without medical
2 attendance during the 48 hours immediately preceding the time of
3 death, unless the attending physician, if any, is able to
4 determine accurately the cause of death.

5 (d) The case of an individual who has died as the result of
6 an abortion, whether self-induced or otherwise.

7 **(e) The case of an individual who has died as a result of 1**
8 **or more injuries suspected to have been caused by a fire.**

9 (2) If a prisoner in a county or city jail dies while so
10 imprisoned, the county medical examiner or deputy county medical
11 examiner, upon being notified of the death of the prisoner, shall
12 examine the body of the deceased prisoner.

13 (3) In conducting an investigation under subsection (1) or
14 (2), a county medical examiner or deputy county medical examiner
15 may request the circuit court to issue a subpoena to produce
16 medical records, books, papers, documents, or other items related
17 to the death being investigated. The circuit court may punish
18 failure to obey a subpoena issued under this section as contempt
19 of court.

20 (4) Medical records, books, papers, documents, or other items
21 that a county medical examiner or deputy county medical examiner
22 obtains in conducting an investigation under this act, whether in
23 response to a subpoena or otherwise, are exempt from disclosure
24 under the freedom of information act, 1976 PA 442, MCL 15.231 to
25 15.246.

26 Sec. 3. ~~Any physician and any person~~ **A physician, an**
27 **individual** in charge of ~~any~~ **a** hospital or ~~institution~~ **other**

1 health facility, or ~~any person~~ another individual who ~~shall~~
2 ~~have~~ has first knowledge of ~~the~~ 1 or more of the following
3 shall immediately notify the county medical examiner or deputy
4 county medical examiner of that fact:

5 (a) The death of ~~any person~~ an individual who ~~shall have~~
6 died suddenly, unexpectedly, accidentally, violently, or as the
7 result of ~~any~~ suspicious circumstances. ~~—, or~~

8 (b) An individual who died as a result of 1 or more injuries
9 suspected to have been caused by a fire.

10 (c) An individual who died without medical attendance during
11 the 48 hours ~~prior to~~ immediately preceding the hour of death,
12 unless the attending physician, if any, is able to determine
13 accurately the cause of death. ~~—, or in any~~

14 (d) A case of death due to what is commonly known as an
15 abortion, whether self-induced or otherwise. ~~—, shall notify the~~
16 ~~county medical examiner or his deputy immediately of the death.~~

17 Sec. 5. (1) ~~When~~ If a county medical examiner or deputy
18 county medical examiner has notice that ~~there has been found~~
19 ~~within his or her county or district~~ the body of ~~a person~~ an
20 individual who ~~is supposed to have come to his or her death~~ may
21 have died in a manner ~~as indicated~~ described in section 3 has
22 been found within the county medical examiner's geographical
23 jurisdiction, the county medical examiner or deputy county
24 medical examiner shall take charge of the body. ~~—, and if, on~~
25 ~~view of~~ If after examining the body and ~~personal inquiry into~~
26 investigating the cause and manner of the death ~~—, the county~~
27 medical examiner or deputy county medical examiner considers a

1 further examination necessary, ~~the county medical examiner or a~~
2 ~~deputy~~ **he or she** may cause the dead body to be removed to the
3 public morgue. If the investigation is **solely** for the reason
4 ~~only~~ that the dead ~~person~~ **individual** had no medical
5 attendance during **the** 48 hours ~~before~~ **immediately preceding** the
6 hour of death, and if the dead ~~person~~ **individual** had chosen not
7 to have medical attendance because of his or her bona fide held
8 religious convictions, removal ~~shall~~ **is** not ~~be~~ required
9 unless there is evidence of other conditions ~~stipulated~~
10 **described** in section 3. If there is no public morgue, ~~then~~ the
11 body may be removed to a private morgue ~~as~~ **designated by** the
12 county medical examiner ~~has designated~~ **or deputy county medical**
13 **examiner.**

14 (2) The **county** medical examiner **or deputy county medical**
15 **examiner** may designate a ~~person~~ **medical examiner investigator**
16 appointed ~~pursuant to~~ **under** section 1a(2) to take charge of the
17 body, make pertinent inquiry, note the circumstances surrounding
18 the death, and, if considered necessary, cause the body to be
19 transported to the morgue for examination by the **county** medical
20 examiner **or deputy county medical examiner.** The **county** medical
21 examiner **or deputy county medical examiner** shall maintain a list
22 of ~~persons~~ **medical examiner investigators** appointed ~~pursuant~~
23 ~~to~~ **under** section 1a(2) and their qualifications, ~~which~~ **and**
24 shall ~~be filed~~ **file the list** with the local law enforcement
25 agencies. ~~The person~~ **A medical examiner investigator** appointed
26 ~~pursuant to~~ **under** section 1a(2) shall not be an agent or
27 employee of ~~any~~ **a person or funeral establishment licensed**

1 under ~~Act No. 268 of the Public Acts of 1949, as amended, being~~
2 ~~sections 338.861 to 338.875 of the Michigan Compiled Laws~~ **the**
3 **occupational code, 1980 PA 299, MCL 339.101 to 339.2721**, receive,
4 directly or indirectly, ~~any~~ remuneration in connection with the
5 disposition of the body, or make ~~any~~ funeral or burial
6 arrangements without approval of the next of kin, if ~~they are~~
7 ~~found~~ **known**, or the ~~person~~ **individual** responsible for the
8 funeral expenses.

9 (3) ~~The~~ **Except as otherwise provided in section 5b, the**
10 county medical examiner may perform or direct to be performed an
11 autopsy and shall carefully reduce or cause to be reduced to
12 writing ~~every~~ **each** fact and circumstance tending to show the
13 condition of the body and the cause and manner of death,
14 ~~together with~~ **and shall include in that writing** the names and
15 addresses of ~~any persons~~ **each individual** present at the
16 autopsy. ~~—, which record he or she shall subscribe. The~~
17 **individual performing the autopsy shall subscribe the writing**
18 **described in this subsection.**

19 (4) **Except as otherwise provided in section 5b, upon receipt**
20 **of a written request from a law enforcement agency or prosecuting**
21 **attorney investigating the death of an individual who died as a**
22 **result of 1 or more injuries suspected to have been caused by a**
23 **fire, the county medical examiner or his or her designee may**
24 **perform an autopsy upon the body of the individual. If the**
25 **county medical examiner does not perform or order the performance**
26 **of an autopsy pursuant to a request received under this**
27 **subsection, the county medical examiner shall explain to the**

1 requester in writing within 48 hours of receiving the written
2 request for the autopsy that the death was directly caused by
3 fire and that an autopsy was not required to determine other
4 possible causes of death. If the law enforcement agency or
5 prosecuting attorney believes that an autopsy would contribute
6 materially to the investigation, the law enforcement agency or
7 prosecuting attorney may file a petition with a court of
8 competent jurisdiction for a review of the county medical
9 examiner's decision not to perform an autopsy. A law enforcement
10 agency or prosecuting attorney must file a petition under this
11 subsection within 24 hours after receiving oral or written notice
12 of the county medical examiner's decision not to perform the
13 autopsy or within 24 hours after the county medical examiner
14 fails to respond within the 48-hour time limit. The court in
15 which the petition is filed shall hold a hearing on the petition
16 within 48 hours after the petition is filed. If the court
17 determines that an autopsy would contribute materially to the
18 investigation, the court shall order the county medical examiner
19 to perform the autopsy immediately and to transmit the results of
20 the autopsy to the petitioner within 24 hours after the autopsy
21 is performed and all necessary tests are completed.

22 (5) ~~—(4)—The~~ Except as provided in subsection (6), the
23 county medical examiner or deputy county medical examiner shall
24 ascertain the identity of the deceased and ~~—notify—~~ immediately
25 and as compassionately as possible **notify** the next of kin of the
26 **decedent's** death and the location of the body. ~~—except that such~~

27 (6) The notification described in subsection (5) is not

1 required if a person from the state police or a ~~county sheriff~~
2 ~~department or a township police department or a municipal police~~
3 ~~department~~ **local law enforcement agency** states to the **county**
4 medical examiner that the notification has already occurred. The
5 county medical examiner may conduct an autopsy **under subsection**
6 **(3)** if he or she determines that an autopsy reasonably appears to
7 be required pursuant to law. ~~After~~ **Except as otherwise**
8 **provided in section 5b, after** the county medical examiner or ~~a~~
9 ~~deputy or a person~~ **an individual** from the state police or a
10 ~~county sheriff department or a township police department or a~~
11 ~~municipal police department~~ **local law enforcement agency** has
12 made diligent effort to locate and notify the next of kin, ~~he or~~
13 ~~she~~ **the county medical examiner** may order and conduct the
14 autopsy with or without the consent of the next of kin of the
15 deceased.

16 (7) ~~(5)~~ The county medical examiner or ~~a~~ **his or her**
17 deputy shall keep a written record of the efforts to locate and
18 notify the next of kin for a period of 1 year from the date of
19 the autopsy. ~~The county medical examiner shall, after any~~
20 **After a** required examination or autopsy, **the county medical**
21 **examiner shall** promptly deliver or return the body to relatives
22 or representatives of the deceased. ~~or, if~~ **If** there are no
23 relatives or representatives **of the deceased** known to the **county**
24 **medical** examiner, he or she may cause the body to be ~~decently~~
25 buried ~~, except that the medical examiner~~ **pursuant to law, but**
26 may retain, as long as ~~may be~~ **he or she determines** necessary,
27 ~~any~~ a portion of the body believed by the **county** medical

1 examiner to be necessary for the detection of ~~any~~ a crime.

2 Sec. 5b. (1) Subject to subsection (2), a county medical
3 examiner or deputy county medical examiner shall not perform an
4 autopsy on the body of a deceased person if a next of kin of the
5 deceased person informs the county medical examiner or deputy
6 county medical examiner that an autopsy would be contrary to the
7 deceased person's religious beliefs.

8 (2) A county medical examiner or deputy county medical
9 examiner may perform an autopsy under the circumstances described
10 in subsection (1) if the county medical examiner or deputy county
11 medical examiner determines that there is a compelling public
12 necessity for the autopsy. If the county medical examiner or
13 deputy county medical examiner determines that there is a
14 compelling public necessity for the autopsy, he or she shall not
15 perform the autopsy for a period of 24 hours after making the
16 determination of compelling public necessity. A compelling
17 public necessity exists for the purposes of this section if
18 either of the following circumstances exists:

19 (a) An autopsy is necessary for the conduct of a criminal
20 investigation by a law enforcement agency.

21 (b) An autopsy is necessary to determine the cause of the
22 deceased person's death in order to protect against an immediate
23 and substantial threat to the public health.

24 (3) During the 24-hour period described in subsection (2), a
25 next of kin described in subsection (1) may petition a court of
26 competent jurisdiction to enjoin the autopsy. The next of kin
27 shall inform the county medical examiner or deputy county medical

1 examiner in writing of the petition. The court in which the
2 petition is filed shall conduct a hearing on the matter within 48
3 hours of the filing of the petition. If the court finds that
4 there is a compelling public necessity, the court shall allow the
5 county medical examiner or deputy county medical examiner to
6 perform the autopsy. A county medical examiner or deputy county
7 medical examiner who performs an autopsy under this section shall
8 use the least intrusive procedures allowed under the
9 circumstances.

10 (4) As used in this act, "next of kin" means the spouse of a
11 deceased individual or an individual related to the deceased
12 individual within the third degree of consanguinity as determined
13 by the civil law method.