

ACCIDENTS INVOLVING "LOOK-A-LIKES"

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House Bill 6308 (Substitute H-1)

House Bill 6309 as introduced

Sponsor: Rep. Michael Sak

Committee: Health Policy

First Analysis (9-19-06)

BRIEF SUMMARY: The bills would require notification be made to county medical examiners when a death involves an accident involving two or more persons of similar physical characteristics and require, in those cases, definitive identification procedures when a visual identification is not possible.

FISCAL IMPACT: The bills may have fiscal implications for local governments on occasions when the bills require additional notifications or tests to assure proper identification. The bills should have no fiscal impact on state government.

THE APPARENT PROBLEM:

Earlier this year, two Michigan residents attending college in Indiana were involved in a vehicle accident. One young woman died at the scene and the other was transported to a local hospital. The two women were close in age, had a similar build, and both had blond hair of about the same length. At some point, the identities of the women were confused, and the parents of Whitney Cerak were mistakenly told their daughter was dead and the parents of Laura VanRyn were told she was in a coma. Five weeks passed with the VanRyns at the bedside of Miss Cerak before she awoke from the coma and identified herself as Whitney.

This is not the first time persons involved in the same accident have been misidentified. Two years ago two friends coming back from a vacation were involved in a serious car accident. One young man died at the scene and his best friend, who bore a strong resemblance to him, was transported to a hospital and underwent surgery for a head injury. Though friends could have properly identified the men at the scene, a police officer identified them by the proximity of a wallet found near the young man who died. Unfortunately, the wallet belonged to the man in surgery, but events had already been put in place, and once again, burial arrangements were being made by the family whose son was alive, and medical decisions were being made by the family whose son was deceased.

As these and similar incidents were examined, some felt that if the law were changed to ensure that county medical examiners were aware that individuals of similar physical characteristics were involved in the accident that caused a death they were investigating, then the medical examiners could follow procedures that would give a definitive identification and thus minimize the chances of mistaken identity.

THE CONTENT OF THE BILLS:

The bills would amend different acts to require, when two or more persons who bear a physical resemblance are injured or killed in an accident, certain notifications to be made to the medical examiner and require the medical examiner to verify the identity of the deceased through fingerprints, dental records, or DNA. The bills are tie-barred to each other.

House Bill 6308 would amend Public Act 181 of 1953 (MCL 52.203 et al.), which pertains to county medical examiners. Currently, physicians, hospitals, or any person who has first knowledge of the death of a person who died suddenly, unexpectedly, violently, or accidentally must notify the county medical examiner or his or her deputy immediately.

The provisions of the bill would be triggered if two or more individuals involved in an accident were approximately the same age, sex, height, weight, and race. The person notifying the medical examiner that a death had occurred as a result of the accident would also have to inform the M.E. that a person or persons resembling the deceased was also in the accident. If the other person or persons had survived the accident, the M.E. would have to be notified which hospital or institution the survivors were taken to. The hospital or institution that the survivors were taken to would also have to be informed that the accident involved two or more individuals with similar attributes.

If visual identification of the deceased was impossible due to burns, decompositions, or other disfiguring injuries, or if the M.E. was aware that the death was the result of an accident involving two or more physically similar individuals, then the M.E. would have to verify the identity of the deceased through fingerprints, dental records, DNA, or other definitive identification procedures and, if the accident resulted in the survival of any individuals with the same attributes, would have to notify the respective hospital or institution of his or her findings.

In addition, a funeral home director, embalmer, or other person currently cannot remove a body from the place where the death as described above occurred, or prepare the body for burial or shipment, without first notifying the M.E. and receiving permission to remove, prepare for burial, or ship the body. A violation is a misdemeanor punishable by imprisonment of not more than one year and/or a fine of not more than \$500. The bill would apply the same prohibitions and penalties when it was known that the accident that resulted in the death involved two or more individuals who were approximately the same age, sex, height, weight, and race.

House Bill 6309 would amend the Public Health Code (MCL 333.2844a). Currently, in deaths investigated by the county medical examiner or his or her deputy, if the M.E. is not able to identify a dead body by visual means, fingerprints, or identifying data, he or she can have a qualified dentist carry out a dental examination. The bill would instead specify that the examination carried out by the dentist would be allowed if the M.E. could not establish and verify under Section 5 of the medical examiner act (MCL 52.205, which

would be amended by House Bill 6308) the identity of the dead body by visual means, fingerprints, DNA, or other definitive identification procedures. (Underlining denotes proposed changes.)

ARGUMENTS:

For:

Some accidents, such as those involving vehicles, fires, and even gunshots, can leave victims so disfigured that identification at the scene can be difficult. In recent years, there have been several cases that have made statewide or national news in which accident victims were improperly identified. Besides the grief and extra emotional distress that such mistakes cause, it also means that hospital personnel are being given incorrect medical histories about their patients, with the potential for serious and life-threatening reactions. It means that strangers are making medical decisions for the severely injured instead of their loved ones. It means that personal religious views are not being followed in the preparation for burial for the deceased.

Examination of the events that have led to such mix-ups has revealed that often communication is very chaotic at the scene of accidents. Even if witnesses properly identify the victims, first responders, such as law enforcement and medical first responders, can mistake similarly looking individuals when loading them into ambulances, ambulance drivers can mistake which hospital, funeral home, and so on they are to take their charge to, county medical examiners, who must autopsy and investigate accident deaths, are also sometimes told the wrong name of the person they are examining or are not told that there were two or more individuals in the same accident that resembled each other.

The bills are an important first step in implementing procedures to minimize any future occurrences. House Bill 6308 would require physicians, hospitals, and any person who knows of the death (which could include first responders such as law enforcement officers) to not only notify county medical examiners of the death, but also notify the M.E. that the accident involved a person who resembled the deceased. At that point, the M.E. would be required by the bill package to institute tests that would definitively identify the deceased. It won't be instantaneous, but it will be more timely than what occurred in the incidents discussed previously. Plus, the hospital that the surviving victim or victims were taken to would also have to be notified that a person who resembled the patient or patients had died in the same accident.

Against:

The bills are an important first step, but more must be done to increase communication at the scene of the accident. For example, House Bill 6308 specifically names hospitals as a party responsible to notify the county medical examiner when, or if, they learn that a person similar in characteristics to the accident victim they are treating was also involved in the same accident. However, injuries from car accidents, fires, even gunshots, are serious trauma injuries that require fast and often extensive surgeries. Due to the life-threatening nature of these injuries, hospital staff would be focusing on saving their

patients' lives, not trying to ascertain if the responders at the scene properly identified the patient. In short, the acts regulating the various first responders should be amended to put guidelines in place for them to follow in ensuring proper identification. Then, if a proper identification could not take place at the scene, the hospital could be notified that the person is a John or Jane Doe for the moment. In such cases, hospitals know to implement universal precautions and not assume that the patient is allergy free, and so on.

Also, some medical examiners would like to see discretion remain with the M.E.s as to which types of identifying tests should be used. In addition, M.E.s would also like to see some funding attached to the bills, as some of the tests, such as DNA tests, can be quite expensive and can quickly wipe out the entire year budget for a rural county.

POSITIONS:

The Department of Community Health indicated support for the bills. (9-19-06)

The Michigan Health and Hospital Association indicated a position of neutrality on the bills. (9-19-06)

The families of Nathaniel Smith and Patrick Bement testified in support of the bills. Patrick and Nate, who were best friends and who resembled each other, were mistakenly identified after the car accident that killed Nate and left Patrick seriously injured. (9-19-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.