

SENATE BILL No. 99

January 26, 2005, Introduced by Senators GARCIA, GOSCHKA and CROPSEY 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 2004 PA 153 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 medical
2 examiner shall investigate the cause and manner of death of an
3 individual under each of the following circumstances:

1 (a) The individual dies by violence.

2 (b) The individual's death is unexpected.

3 (c) The individual dies without medical attendance by a
4 physician, or the individual dies while under home hospice care
5 without medical attendance by a physician or a registered nurse,
6 during the 48 hours immediately preceding the time of death, unless
7 the attending physician, if any, is able to determine accurately
8 the cause of death.

9 (d) The individual dies as the result of an abortion, whether
10 self-induced or otherwise.

11 **(E) THE INDIVIDUAL DIES AS THE RESULT OF 1 OR MORE INJURIES**
12 **SUSPECTED TO HAVE BEEN CAUSED BY A FIRE.**

13 (2) If a prisoner in a county or city jail dies while
14 imprisoned, the county medical examiner or deputy county medical
15 examiner, upon being notified of the death of the prisoner, shall
16 examine the body of the deceased prisoner.

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

24 (4) Medical records, books, papers, documents, or other items
25 that a county medical examiner or deputy county medical examiner
26 obtains in conducting an investigation under this act, whether in
27 response to a subpoena or otherwise, are exempt from disclosure

1 under the freedom of information act, 1976 PA 442, MCL 15.231 to
2 15.246.

3 (5) As used in this section:

4 (a) "Home hospice care" means a program of planned and
5 continuous hospice care provided by a hospice or a hospice
6 residence that consists of a coordinated set of services rendered
7 to an individual at his or her home on a continuous basis for a
8 disease or condition with a terminal prognosis.

9 (b) "Physician" means a person licensed as a physician under
10 part 170 or part 175 of the public health code, 1978 PA 368, MCL
11 333.17001 to 333.17084 and 333.17501 to 333.17556.

12 (c) "Registered nurse" means a person licensed as a registered
13 professional nurse under part 172 of the public health code, 1978
14 PA 368, MCL 333.17201 to 333.17242.

15 Sec. 3. ~~Any physician and any person~~ **A PHYSICIAN, AN**
16 **INDIVIDUAL** in charge of ~~any~~ **A** hospital or ~~institution~~ **OTHER**
17 **HEALTH FACILITY**, or ~~any person~~ **ANOTHER INDIVIDUAL** who ~~shall have~~
18 **HAS** first knowledge of ~~the death of any person~~ **1 OR MORE OF THE**
19 **FOLLOWING SHALL IMMEDIATELY NOTIFY THE COUNTY MEDICAL EXAMINER OR**
20 **DEPUTY COUNTY MEDICAL EXAMINER OF THAT FACT:**

21 (A) **AN INDIVIDUAL** who ~~shall have~~ died suddenly,
22 unexpectedly, accidentally, violently, or as the result of ~~any~~
23 suspicious circumstances. ~~—or~~

24 (B) **AN INDIVIDUAL WHO DIED AS A RESULT OF 1 OR MORE INJURIES**
25 **SUSPECTED TO HAVE BEEN CAUSED BY A FIRE.**

26 (C) **AN INDIVIDUAL WHO DIED** without medical attendance during
27 the 48 hours ~~prior to~~ **IMMEDIATELY PRECEDING** the hour of death,

1 unless the attending physician, if any, is able to determine
2 accurately the cause of death. ~~, or in any case of death due to~~

3 (D) **AN INDIVIDUAL WHO DIED AS A RESULT OF** what is commonly
4 known as an abortion, whether self-induced or otherwise. ~~, shall~~
5 ~~notify the county medical examiner or his deputy immediately of the~~
6 ~~death.~~

7 Sec. 5. (1) ~~When~~ **IF** a county medical examiner **OR DEPUTY**
8 **COUNTY MEDICAL EXAMINER** has notice that ~~there has been found~~
9 ~~within his or her county or district~~ the body of ~~a person~~ **AN**
10 **INDIVIDUAL** who ~~is supposed to have come to his or her death~~ **MAY**
11 **HAVE DIED** in a manner ~~as indicated~~ **DESCRIBED** in section 3 **HAS**
12 **BEEN FOUND WITHIN THE COUNTY MEDICAL EXAMINER'S GEOGRAPHICAL**
13 **JURISDICTION**, the **COUNTY** medical examiner **OR DEPUTY COUNTY MEDICAL**
14 **EXAMINER** shall take charge of the body. ~~, and if, on view of~~ **IF**
15 **AFTER EXAMINING** the body and ~~personal inquiry into~~ **INVESTIGATING**
16 the cause and manner of the death ~~, the~~ **COUNTY** medical examiner
17 **OR DEPUTY COUNTY MEDICAL EXAMINER** considers a further examination
18 necessary, ~~the county medical examiner or a deputy~~ **HE OR SHE** may
19 cause the dead body to be removed to the public morgue. If the
20 investigation is **SOLELY** for the reason ~~only~~ that the dead ~~person~~
21 **INDIVIDUAL** had no medical attendance during **THE** 48 hours ~~before~~
22 **IMMEDIATELY PRECEDING** the hour of death, and if the dead ~~person~~
23 **INDIVIDUAL** had chosen not to have medical attendance because of his
24 or her bona fide held religious convictions, removal ~~shall~~ **IS** not
25 ~~be~~ required unless there is evidence of other conditions
26 ~~stipulated~~ **DESCRIBED** in section 3. If there is no public morgue,
27 ~~then~~ the body may be removed to a private morgue ~~as~~ **DESIGNATED**

1 BY the county medical examiner ~~has designated~~ OR DEPUTY COUNTY
2 MEDICAL EXAMINER.

3 (2) The COUNTY medical examiner OR DEPUTY COUNTY MEDICAL
4 EXAMINER may designate a ~~person~~ MEDICAL EXAMINER INVESTIGATOR
5 appointed ~~pursuant to~~ UNDER section 1a(2) to take charge of the
6 body, make pertinent inquiry, note the circumstances surrounding
7 the death, and, if considered necessary, cause the body to be
8 transported to the morgue for examination by the COUNTY medical
9 examiner OR DEPUTY COUNTY MEDICAL EXAMINER. The COUNTY medical
10 examiner OR DEPUTY COUNTY MEDICAL EXAMINER shall maintain a list of
11 ~~persons~~ MEDICAL EXAMINER INVESTIGATORS appointed ~~pursuant to~~
12 UNDER section 1a(2) and their qualifications, ~~which~~ AND shall ~~be~~
13 ~~filed~~ FILE THE LIST with the local law enforcement agencies. ~~The~~
14 ~~person~~ A MEDICAL EXAMINER INVESTIGATOR appointed ~~pursuant to~~
15 UNDER section 1a(2) shall not be an agent or employee of ~~any~~ A
16 person or funeral establishment licensed under ~~Act No. 268 of the~~
17 ~~Public Acts of 1949, as amended, being sections 338.861 to 338.875~~
18 ~~of the Michigan Compiled Laws~~ ARTICLE 18 OF THE OCCUPATIONAL CODE,
19 1980 PA 299, MCL 339.1801 TO 339.1812, receive, directly or
20 indirectly, ~~any~~ remuneration in connection with the disposition
21 of the body, or make ~~any~~ funeral or burial arrangements without
22 approval of the next of kin, if ~~they are found~~ KNOWN, or the
23 ~~person~~ INDIVIDUAL responsible for the funeral expenses.

24 (3) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN SECTION 5B, THE
25 county medical examiner may perform or direct to be performed an
26 autopsy and shall carefully reduce or cause to be reduced to
27 writing ~~every~~ EACH fact and circumstance tending to show the

1 condition of the body and the cause and manner of death, ~~together~~
2 ~~with~~ AND SHALL INCLUDE IN THAT WRITING the names and addresses of
3 ~~any persons~~ EACH INDIVIDUAL present at the autopsy. ~~, which~~
4 ~~record he or she shall subscribe.~~ THE INDIVIDUAL PERFORMING THE
5 AUTOPSY SHALL SUBSCRIBE THE WRITING DESCRIBED IN THIS SUBSECTION.

6 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION OR SECTION
7 5B, UPON RECEIPT OF A WRITTEN REQUEST FROM A LAW ENFORCEMENT AGENCY
8 OR PROSECUTING ATTORNEY INVESTIGATING THE DEATH OF AN INDIVIDUAL
9 WHO DIED AS A RESULT OF 1 OR MORE INJURIES SUSPECTED TO HAVE BEEN
10 CAUSED BY A FIRE, THE COUNTY MEDICAL EXAMINER OR HIS OR HER
11 DESIGNEE SHALL PERFORM AN AUTOPSY UPON THE BODY OF THE INDIVIDUAL.
12 IF THE COUNTY MEDICAL EXAMINER DOES NOT PERFORM OR ORDER THE
13 PERFORMANCE OF AN AUTOPSY PURSUANT TO A REQUEST RECEIVED UNDER THIS
14 SUBSECTION, THE COUNTY MEDICAL EXAMINER SHALL EXPLAIN TO THE
15 REQUESTER IN WRITING WITHIN 48 HOURS OF RECEIVING THE WRITTEN
16 REQUEST FOR THE AUTOPSY THAT THE DEATH WAS DIRECTLY CAUSED BY FIRE
17 AND THAT AN AUTOPSY WAS NOT REQUIRED TO DETERMINE OTHER POSSIBLE
18 CAUSES OF DEATH. IF THE LAW ENFORCEMENT AGENCY OR PROSECUTING
19 ATTORNEY BELIEVES THAT AN AUTOPSY WOULD CONTRIBUTE MATERIALLY TO
20 THE INVESTIGATION, THE LAW ENFORCEMENT AGENCY OR PROSECUTING
21 ATTORNEY MAY FILE A PETITION WITH A COURT OF COMPETENT JURISDICTION
22 FOR A REVIEW OF THE COUNTY MEDICAL EXAMINER'S DECISION NOT TO
23 PERFORM AN AUTOPSY. A LAW ENFORCEMENT AGENCY OR PROSECUTING
24 ATTORNEY MUST FILE A PETITION UNDER THIS SUBSECTION WITHIN 24 HOURS
25 AFTER RECEIVING ORAL OR WRITTEN NOTICE OF THE COUNTY MEDICAL
26 EXAMINER'S DECISION NOT TO PERFORM THE AUTOPSY OR WITHIN 24 HOURS
27 AFTER THE COUNTY MEDICAL EXAMINER FAILS TO RESPOND WITHIN THE 48-

1 HOUR TIME LIMIT. THE COURT IN WHICH THE PETITION IS FILED SHALL
2 HOLD A HEARING ON THE PETITION WITHIN 48 HOURS AFTER THE PETITION
3 IS FILED. IF THE COURT DETERMINES THAT AN AUTOPSY WOULD CONTRIBUTE
4 MATERIALLY TO THE INVESTIGATION, THE COURT SHALL ORDER THE COUNTY
5 MEDICAL EXAMINER TO PERFORM THE AUTOPSY IMMEDIATELY AND TO TRANSMIT
6 THE RESULTS OF THE AUTOPSY TO THE PETITIONER WITHIN 24 HOURS AFTER
7 THE AUTOPSY IS PERFORMED AND ALL NECESSARY TESTS ARE COMPLETED.

8 (5) ~~—(4) The~~ EXCEPT AS PROVIDED IN SUBSECTION (6), THE
9 COUNTY medical examiner OR DEPUTY COUNTY MEDICAL EXAMINER shall
10 ascertain the identity of the deceased and ~~notify~~ immediately AND
11 as compassionately as possible NOTIFY the next of kin of the
12 DECEDENT'S death and the location of the body. ~~except that such~~

13 (6) THE notification DESCRIBED IN SUBSECTION (5) is not
14 required if a person from the state police or a ~~county sheriff~~
15 ~~department or a township police department or a municipal police~~
16 ~~department~~ LOCAL LAW ENFORCEMENT AGENCY states to the COUNTY
17 medical examiner that the notification has already occurred. The
18 county medical examiner may conduct an autopsy UNDER SUBSECTION (3)
19 if he or she determines that an autopsy reasonably appears to be
20 required pursuant to law. ~~After~~ EXCEPT AS OTHERWISE PROVIDED IN
21 SECTION 5B, AFTER the county medical examiner or ~~a deputy or a~~
22 ~~person~~ AN INDIVIDUAL from the state police or a ~~county sheriff~~
23 ~~department or a township police department or a municipal police~~
24 ~~department~~ LOCAL LAW ENFORCEMENT AGENCY has made diligent effort
25 to locate and notify the next of kin, ~~he or she~~ THE COUNTY
26 MEDICAL EXAMINER may order and conduct the autopsy with or without
27 the consent of the next of kin of the deceased.

1 (7) ~~—(5)—~~ The county medical examiner or ~~—a—~~ **HIS OR HER**
2 deputy shall keep a written record of the efforts to locate and
3 notify the next of kin for a period of 1 year from the date of the
4 autopsy. ~~The county medical examiner shall, after any~~ **AFTER A**
5 required examination or autopsy, **THE COUNTY MEDICAL EXAMINER SHALL**
6 promptly deliver or return the body to relatives or representatives
7 of the deceased. ~~—or, if—~~ **IF** there are no relatives or
8 representatives **OF THE DECEASED** known to the **COUNTY MEDICAL**
9 examiner, he or she may cause the body to be ~~—decently—~~ buried ~~—,~~
10 ~~except that the medical examiner~~ **PURSUANT TO LAW, BUT** may retain,
11 as long as ~~—may be—~~ **HE OR SHE DETERMINES** necessary, ~~—any—~~ **A** portion
12 of the body believed by the **COUNTY** medical examiner to be necessary
13 for the detection of ~~—any—~~ **A** crime.

14 **SEC. 5B. (1) SUBJECT TO SUBSECTION (2), A COUNTY MEDICAL**
15 **EXAMINER OR DEPUTY COUNTY MEDICAL EXAMINER SHALL NOT PERFORM AN**
16 **AUTOPSY ON THE BODY OF A DECEASED PERSON IF A NEXT OF KIN OF THE**
17 **DECEASED PERSON INFORMS THE COUNTY MEDICAL EXAMINER OR DEPUTY**
18 **COUNTY MEDICAL EXAMINER THAT AN AUTOPSY WOULD BE CONTRARY TO THE**
19 **DECEASED PERSON'S RELIGIOUS BELIEFS.**

20 **(2) A COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY MEDICAL**
21 **EXAMINER MAY PERFORM AN AUTOPSY UNDER THE CIRCUMSTANCES DESCRIBED**
22 **IN SUBSECTION (1) IF THE COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY**
23 **MEDICAL EXAMINER DETERMINES THAT THERE IS A COMPELLING PUBLIC**
24 **NECESSITY FOR THE AUTOPSY. IF THE COUNTY MEDICAL EXAMINER OR DEPUTY**
25 **COUNTY MEDICAL EXAMINER DETERMINES THAT THERE IS A COMPELLING**
26 **PUBLIC NECESSITY FOR THE AUTOPSY, HE OR SHE SHALL NOT PERFORM THE**
27 **AUTOPSY FOR A PERIOD OF 24 HOURS AFTER MAKING THE DETERMINATION OF**

1 COMPELLING PUBLIC NECESSITY. A COMPELLING PUBLIC NECESSITY EXISTS
2 FOR THE PURPOSES OF THIS SECTION IF EITHER OF THE FOLLOWING
3 CIRCUMSTANCES EXISTS:

4 (A) AN AUTOPSY IS NECESSARY FOR THE CONDUCT OF A CRIMINAL
5 INVESTIGATION BY A LAW ENFORCEMENT AGENCY.

6 (B) AN AUTOPSY IS NECESSARY TO DETERMINE THE CAUSE OF THE
7 DECEASED PERSON'S DEATH IN ORDER TO PROTECT AGAINST AN IMMEDIATE
8 AND SUBSTANTIAL THREAT TO THE PUBLIC HEALTH.

9 (3) DURING THE 24-HOUR PERIOD DESCRIBED IN SUBSECTION (2), A
10 NEXT OF KIN DESCRIBED IN SUBSECTION (1) MAY PETITION A COURT OF
11 COMPETENT JURISDICTION TO ENJOIN THE AUTOPSY. THE NEXT OF KIN SHALL
12 INFORM THE COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY MEDICAL
13 EXAMINER IN WRITING OF THE PETITION. THE COURT IN WHICH THE
14 PETITION IS FILED SHALL CONDUCT A HEARING ON THE MATTER WITHIN 48
15 HOURS OF THE FILING OF THE PETITION. IF THE COURT FINDS THAT THERE
16 IS A COMPELLING PUBLIC NECESSITY, THE COURT SHALL ALLOW THE COUNTY
17 MEDICAL EXAMINER OR DEPUTY COUNTY MEDICAL EXAMINER TO PERFORM THE
18 AUTOPSY. A COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY MEDICAL
19 EXAMINER WHO PERFORMS AN AUTOPSY UNDER THIS SECTION SHALL USE THE
20 LEAST INTRUSIVE PROCEDURES ALLOWED UNDER THE CIRCUMSTANCES.

21 (4) AS USED IN THIS ACT, "NEXT OF KIN" MEANS THE SPOUSE OF A
22 DECEASED INDIVIDUAL OR AN INDIVIDUAL RELATED TO THE DECEASED
23 INDIVIDUAL WITHIN THE THIRD DEGREE OF CONSANGUINITY AS DETERMINED
24 BY THE CIVIL LAW METHOD.