

SENATE BILL No. 580

June 12, 2007, Introduced by Senators GARCIA, JANSEN 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 2004 PA 153 and sections 3 and 5 as amended by 2006 PA 569, 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. (1) ~~Any physician and any person~~ **A PHYSICIAN, AN**
16 **INDIVIDUAL** in charge of ~~any~~ **A** hospital or ~~institution~~ **OTHER HEALTH**
17 **FACILITY**, or ~~any person~~ **ANOTHER INDIVIDUAL** who ~~shall have~~ **HAS** first
18 knowledge of ~~the death of any person~~ **1 OR MORE OF THE FOLLOWING**
19 **SHALL IMMEDIATELY NOTIFY THE COUNTY MEDICAL EXAMINER OR DEPUTY**
20 **COUNTY MEDICAL EXAMINER OF THAT FACT:**

21 (A) **AN INDIVIDUAL** who ~~shall have~~ died suddenly, unexpectedly,
22 accidentally, violently, or as the result of ~~any~~ suspicious
23 circumstances. ~~7-07~~

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 or her deputy immediately~~
6 ~~of the death.~~

7 (2) If the physician, ~~person~~ **INDIVIDUAL** in charge of ~~any~~ **A**
8 hospital or ~~institution~~ **OTHER HEALTH FACILITY**, or other ~~person~~
9 **INDIVIDUAL** who has first knowledge of the death of a ~~person~~ **AN**
10 **INDIVIDUAL** as described under subsection (1) has knowledge that
11 there were 2 or more individuals involved in the same accident who
12 were approximately the same age, sex, height, weight, hair color,
13 eye color, and race, then he or she shall make the county medical
14 examiner or his or her deputy aware of that fact and whether or not
15 any of those individuals survived that accident when notifying the
16 examiner or deputy of the death as required under subsection (1).
17 If any of those individuals survived, the county medical examiner
18 or his or her deputy shall also be informed which hospital or
19 institution those individuals were taken to and the hospital or
20 institution shall also be made aware that the accident involved 2
21 or more individuals with similar attributes.

22 Sec. 5. (1) ~~When~~ **IF** a county medical examiner **OR DEPUTY COUNTY**
23 **MEDICAL EXAMINER** has notice that ~~there has been found within his or~~
24 ~~her county or district~~ the body of a ~~person~~ **AN INDIVIDUAL** who is
25 ~~supposed to have come to his or her death~~ **MAY HAVE DIED** in a manner
26 ~~as indicated~~ **DESCRIBED** in section 3 **HAS BEEN FOUND WITHIN THE**
27 **COUNTY MEDICAL EXAMINER'S GEOGRAPHICAL JURISDICTION**, the **COUNTY**

1 medical examiner shall take charge of the body. ~~and if, on view~~
2 ~~of~~ **IF AFTER EXAMINING** the body and ~~personal inquiry into~~
3 **INVESTIGATING** the cause and manner of the death ~~the~~ **COUNTY**
4 medical examiner **OR DEPUTY COUNTY MEDICAL EXAMINER** considers a
5 further examination necessary, ~~the county medical examiner or a~~
6 ~~deputy~~ **HE OR SHE** may cause the ~~dead~~ body to be removed to the
7 public morgue. If the investigation is **SOLELY** for the reason ~~only~~
8 that the ~~dead person~~ **DECEDENT** had no medical attendance during **THE**
9 48 hours ~~before~~ **IMMEDIATELY PRECEDING** the hour of death, and if the
10 ~~dead person~~ **DECEDENT** had chosen not to have medical attendance
11 because of his or her bona fide held religious convictions, removal
12 ~~shall~~ **IS** not ~~be~~ required unless there is evidence of other
13 conditions ~~stipulated~~ **DESCRIBED** in section 3. If there is no public
14 morgue, ~~then~~ the body may be removed to a private morgue ~~as~~
15 **DESIGNATED BY** the county medical examiner ~~has designated~~ **OR DEPUTY**
16 **COUNTY MEDICAL EXAMINER.**

17 (2) The **COUNTY** medical examiner **OR DEPUTY COUNTY MEDICAL**
18 **EXAMINER** may designate a ~~person~~ **MEDICAL EXAMINER INVESTIGATOR**
19 appointed ~~pursuant to~~ **UNDER** section 1a(2) to take charge of the
20 body, make pertinent inquiry, note the circumstances surrounding
21 the death, and, if considered necessary, cause the body to be
22 transported to the morgue for examination by the **COUNTY** medical
23 examiner **OR DEPUTY COUNTY MEDICAL EXAMINER.** The **COUNTY** medical
24 examiner **OR DEPUTY COUNTY MEDICAL EXAMINER** shall maintain a list of
25 ~~persons~~ **MEDICAL EXAMINER INVESTIGATORS** appointed ~~pursuant to~~ **UNDER**
26 section 1a(2) and their qualifications ~~which~~ **AND** shall ~~be~~ filed
27 **FILE THE LIST** with the local law enforcement agencies. ~~The person~~ **A**

1 **MEDICAL EXAMINER INVESTIGATOR** appointed pursuant to ~~UNDER~~ section
2 1a(2) shall not be an agent or employee of ~~any~~ **A** person or funeral
3 establishment licensed under article 18 of the occupational code,
4 1980 PA 299, MCL 339.1801 to 339.1812, receive, directly or
5 indirectly, ~~any~~ remuneration in connection with the disposition of
6 the body, or make ~~any~~ funeral or burial arrangements without
7 approval of the next of kin, if ~~they are found~~ **KNOWN**, or the ~~person~~
8 **INDIVIDUAL** responsible for the funeral expenses.

9 (3) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 5B, THE** county
10 medical examiner may perform or direct to be performed an autopsy
11 and shall carefully reduce or cause to be reduced to writing ~~every~~
12 **EACH** fact and circumstance tending to show the condition of the
13 body and the cause and manner of death, ~~together with~~ **AND SHALL**
14 **INCLUDE IN THAT WRITING** the ~~names~~ **NAME** and ~~addresses~~ **ADDRESS** of ~~any~~
15 ~~persons~~ **EACH INDIVIDUAL** present at the autopsy. ~~, which record he~~
16 ~~or she shall subscribe.~~ **THE INDIVIDUAL PERFORMING THE AUTOPSY SHALL**
17 **SUBSCRIBE THE WRITING DESCRIBED IN THIS SUBSECTION.**

18 (4) **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION OR SECTION**
19 **5B, UPON RECEIPT OF A WRITTEN REQUEST FROM A LAW ENFORCEMENT AGENCY**
20 **OR PROSECUTING ATTORNEY INVESTIGATING THE DEATH OF AN INDIVIDUAL**
21 **WHO DIED AS A RESULT OF 1 OR MORE INJURIES SUSPECTED TO HAVE BEEN**
22 **CAUSED BY A FIRE, THE COUNTY MEDICAL EXAMINER OR HIS OR HER**
23 **DESIGNEE SHALL PERFORM AN AUTOPSY UPON THE BODY OF THE INDIVIDUAL.**
24 **IF THE COUNTY MEDICAL EXAMINER DOES NOT PERFORM OR ORDER THE**
25 **PERFORMANCE OF AN AUTOPSY PURSUANT TO A REQUEST RECEIVED UNDER THIS**
26 **SUBSECTION, THE COUNTY MEDICAL EXAMINER SHALL EXPLAIN TO THE**
27 **REQUESTER IN WRITING WITHIN 48 HOURS OF RECEIVING THE WRITTEN**

1 REQUEST FOR THE AUTOPSY THAT THE DEATH WAS DIRECTLY CAUSED BY FIRE
2 AND THAT AN AUTOPSY WAS NOT REQUIRED TO DETERMINE OTHER POSSIBLE
3 CAUSES OF DEATH. IF THE LAW ENFORCEMENT AGENCY OR PROSECUTING
4 ATTORNEY BELIEVES THAT AN AUTOPSY WOULD CONTRIBUTE MATERIALLY TO
5 THE INVESTIGATION, THE LAW ENFORCEMENT AGENCY OR PROSECUTING
6 ATTORNEY MAY FILE A PETITION WITH A COURT OF COMPETENT JURISDICTION
7 FOR A REVIEW OF THE COUNTY MEDICAL EXAMINER'S DECISION NOT TO
8 PERFORM AN AUTOPSY. A LAW ENFORCEMENT AGENCY OR PROSECUTING
9 ATTORNEY SHALL FILE A PETITION UNDER THIS SUBSECTION WITHIN 24
10 HOURS AFTER RECEIVING ORAL OR WRITTEN NOTICE OF THE COUNTY MEDICAL
11 EXAMINER'S DECISION NOT TO PERFORM THE AUTOPSY OR WITHIN 24 HOURS
12 AFTER THE COUNTY MEDICAL EXAMINER FAILS TO RESPOND WITHIN THE 48-
13 HOUR TIME LIMIT. THE COURT IN WHICH THE PETITION IS FILED SHALL
14 HOLD A HEARING ON THE PETITION WITHIN 48 HOURS AFTER THE PETITION
15 IS FILED. IF THE COURT DETERMINES THAT AN AUTOPSY WOULD CONTRIBUTE
16 MATERIALLY TO THE INVESTIGATION, THE COURT SHALL ORDER THE COUNTY
17 MEDICAL EXAMINER TO PERFORM THE AUTOPSY IMMEDIATELY AND TO TRANSMIT
18 THE RESULTS OF THE AUTOPSY TO THE PETITIONER WITHIN 24 HOURS AFTER
19 THE AUTOPSY IS PERFORMED AND ALL NECESSARY TESTS ARE COMPLETED.

20 (5) ~~(4) The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION
21 AND SUBJECT TO SUBSECTION (6), THE COUNTY medical examiner OR
22 DEPUTY COUNTY MEDICAL EXAMINER shall ascertain the identity of the
23 ~~deceased~~ DECEDENT and ~~notify~~ immediately AND as compassionately as
24 possible NOTIFY the next of kin of the DECEDENT'S death and the
25 location of the body. ~~except that such~~ THE notification DESCRIBED
26 IN THIS SUBSECTION is not required if a person from the state
27 police, a county sheriff department, a township police department,

1 or a municipal police department states to the **COUNTY** medical
2 examiner **OR DEPUTY COUNTY MEDICAL EXAMINER** that the notification
3 has already occurred.

4 (6) If visual identification of an individual is impossible as
5 a result of burns, decomposition, or other disfiguring injuries or
6 if the county medical examiner is aware that the death is the
7 result of an accident that involved 2 or more individuals who were
8 approximately the same age, sex, height, weight, hair color, eye
9 color, and race, then the county medical examiner shall verify the
10 identity of the deceased through fingerprints, dental records, DNA,
11 or other definitive identification procedures and, if the accident
12 resulted in the survival of any individuals with the same
13 attributes, shall notify the respective hospital or institution of
14 his or her findings. The county medical examiner may conduct an
15 autopsy **UNDER SUBSECTION (3)** if he or she determines that an
16 autopsy reasonably appears to be required pursuant to law. ~~After~~
17 **EXCEPT AS OTHERWISE PROVIDED IN SECTION 5B, AFTER** the county
18 medical examiner, a deputy, a person from the state police, a
19 county sheriff department, a township police department, or a
20 municipal police department has made diligent effort to locate and
21 notify the next of kin, ~~he or she~~ **THE COUNTY MEDICAL EXAMINER** may
22 order and conduct the autopsy with or without the consent of the
23 next of kin of the deceased.

24 (7) ~~(5)~~—The county medical examiner or a ~~HIS OR HER~~ deputy
25 shall keep a written record of the efforts to locate and notify the
26 next of kin for a period of 1 year from the date of the autopsy.
27 ~~The county medical examiner shall, after any~~ **AFTER A** required

1 examination or autopsy, **THE COUNTY MEDICAL EXAMINER SHALL** promptly
2 deliver or return the body to relatives or representatives of the
3 deceased. ~~or, if~~ **IF** there are no relatives or representatives **OF**
4 **THE DECEASED** known to the **COUNTY MEDICAL** examiner, he or she may
5 cause the body to be ~~decently buried, except that the medical~~
6 ~~examiner~~ **PURSUANT TO LAW, BUT** may retain, as long as ~~may be~~ **HE OR**
7 **SHE DETERMINES** necessary, ~~any~~ **A** portion of the body believed by the
8 **COUNTY** medical examiner to be necessary for the detection of ~~any~~ **A**
9 crime.

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

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

27 **(A) AN AUTOPSY IS NECESSARY FOR THE CONDUCT OF A CRIMINAL**

1 INVESTIGATION BY A LAW ENFORCEMENT AGENCY.

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

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

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