

SENATE BILL No. 1402

September 17, 2002, Introduced by Senators GARCIA, NORTH and GOSCHKA and referred to the Committee on Judiciary.

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 med-
2 ical 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.

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

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

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

8 (E) THE CASE OF AN INDIVIDUAL WHO HAS DIED AS A RESULT OF 1
9 OR MORE INJURIES SUSPECTED TO HAVE BEEN CAUSED BY A FIRE.

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

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

21 (4) Medical records, books, papers, documents, or other
22 items that a county medical examiner or deputy county medical
23 examiner obtains in conducting an investigation under this act,
24 whether in response to a subpoena or otherwise, are exempt from
25 disclosure under the freedom of information act, 1976 PA 442, MCL
26 15.231 to 15.246.

1 Sec. 3. ~~Any physician and any person~~ A PHYSICIAN, AN
2 INDIVIDUAL in charge of ~~any~~ A hospital or ~~institution~~ OTHER
3 HEALTH FACILITY, or ~~any person~~ ANOTHER INDIVIDUAL who ~~shall~~
4 ~~have~~ HAS first knowledge of ~~the~~ 1 OR MORE OF THE FOLLOWING
5 SHALL IMMEDIATELY NOTIFY THE COUNTY MEDICAL EXAMINER OR DEPUTY
6 COUNTY MEDICAL EXAMINER OF THAT FACT:

7 (A) THE death of ~~any person~~ AN INDIVIDUAL who ~~shall have~~
8 died suddenly, unexpectedly, accidentally, violently, or as the
9 result of ~~any~~ suspicious circumstances. ~~, or~~

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

12 (C) AN INDIVIDUAL WHO DIED without medical attendance during
13 the 48 hours ~~prior to~~ IMMEDIATELY PRECEDING the hour of death,
14 unless the attending physician, if any, is able to determine
15 accurately the cause of death. ~~, or in any~~

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

19 Sec. 5. (1) ~~When~~ IF a county medical examiner OR DEPUTY
20 COUNTY MEDICAL EXAMINER has notice that ~~there has been found~~
21 ~~within his or her county or district~~ the body of ~~a person~~ AN
22 INDIVIDUAL who ~~is supposed to have come to his or her death~~ MAY
23 HAVE DIED in a manner ~~as indicated~~ DESCRIBED in section 3 HAS
24 BEEN FOUND WITHIN THE COUNTY MEDICAL EXAMINER'S GEOGRAPHICAL
25 JURISDICTION, the COUNTY medical examiner OR DEPUTY COUNTY MEDI-
26 CAL EXAMINER shall take charge of the body. ~~, and if, on view~~
27 ~~of~~ IF AFTER EXAMINING the body and ~~personal inquiry into~~

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

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

1 ~~pursuant to~~ UNDER section 1a(2) shall not be an agent or
2 employee of ~~any~~ A person or funeral establishment licensed
3 under ~~Act No. 268 of the Public Acts of 1949, as amended, being~~
4 ~~sections 338.861 to 338.875 of the Michigan Compiled Laws~~ THE
5 OCCUPATIONAL CODE, 1980 PA 299, MCL 339.101 TO 339.2721, receive,
6 directly or indirectly, ~~any~~ remuneration in connection with the
7 disposition of the body, or make ~~any~~ funeral or burial arrange-
8 ments without approval of the next of kin, if ~~they are found~~
9 KNOWN, or the ~~person~~ INDIVIDUAL responsible for the funeral
10 expenses.

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

21 (4) EXCEPT AS OTHERWISE PROVIDED IN SECTION 5B, UPON RECEIPT
22 OF A WRITTEN REQUEST FROM A LAW ENFORCEMENT AGENCY OR PROSECUTING
23 ATTORNEY INVESTIGATING THE DEATH OF AN INDIVIDUAL WHO DIED AS A
24 RESULT OF 1 OR MORE INJURIES SUSPECTED TO HAVE BEEN CAUSED BY A
25 FIRE, THE COUNTY MEDICAL EXAMINER OR HIS OR HER DESIGNEE MAY PER-
26 FORM AN AUTOPSY UPON THE BODY OF THE INDIVIDUAL. IF THE COUNTY
27 MEDICAL EXAMINER DOES NOT PERFORM OR ORDER THE PERFORMANCE OF AN

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

23 (5) ~~-(4)-The~~ EXCEPT AS PROVIDED IN SUBSECTION (6), THE
24 COUNTY medical examiner OR DEPUTY COUNTY MEDICAL EXAMINER shall
25 ascertain the identity of the deceased and ~~notify~~ immediately
26 AND as compassionately as possible NOTIFY the next of kin of the
27 DECEDENT'S death and the location of the body. ~~except that such~~

1 (6) THE notification DESCRIBED IN SUBSECTION (5) is not
2 required if a person from the state police or a ~~county sheriff~~
3 ~~department or a township police department or a municipal police~~
4 ~~department~~ LOCAL LAW ENFORCEMENT AGENCY states to the COUNTY
5 medical examiner that the notification has already occurred. The
6 county medical examiner may conduct an autopsy UNDER SUBSECTION
7 (3) if he or she determines that an autopsy reasonably appears to
8 be required pursuant to law. ~~After~~ EXCEPT AS OTHERWISE PRO-
9 VIDED IN SECTION 5B, AFTER the county medical examiner or ~~a~~
10 ~~deputy or a person~~ AN INDIVIDUAL from the state police or a
11 ~~county sheriff department or a township police department or a~~
12 ~~municipal police department~~ LOCAL LAW ENFORCEMENT AGENCY has
13 made diligent effort to locate and notify the next of kin, ~~he or~~
14 ~~she~~ THE COUNTY MEDICAL EXAMINER may order and conduct the
15 autopsy with or without the consent of the next of kin of the
16 deceased.

17 (7) ~~(5)~~ The county medical examiner or ~~a~~ HIS OR HER
18 deputy shall keep a written record of the efforts to locate and
19 notify the next of kin for a period of 1 year from the date of
20 the autopsy. ~~The county medical examiner shall, after any~~
21 AFTER A required examination or autopsy, THE COUNTY MEDICAL
22 EXAMINER SHALL promptly deliver or return the body to relatives
23 or representatives of the deceased. ~~or, if~~ IF there are no
24 relatives or representatives OF THE DECEASED known to the COUNTY
25 MEDICAL examiner, he or she may cause the body to be ~~decently~~
26 buried ~~, except that the medical examiner~~ PURSUANT TO LAW, BUT
27 may retain, as long as ~~may be~~ HE OR SHE DETERMINES necessary,

1 ~~any~~ A portion of the body believed by the COUNTY medical
2 examiner to be necessary for the detection of ~~any~~ A crime.

3 SEC. 5B. (1) SUBJECT TO SUBSECTION (2), A COUNTY MEDICAL
4 EXAMINER OR DEPUTY COUNTY MEDICAL EXAMINER SHALL NOT PERFORM AN
5 AUTOPSY ON THE BODY OF A DECEASED PERSON IF A NEXT OF KIN OF THE
6 DECEASED PERSON INFORMS THE COUNTY MEDICAL EXAMINER OR DEPUTY
7 COUNTY MEDICAL EXAMINER THAT AN AUTOPSY WOULD BE CONTRARY TO THE
8 DECEASED PERSON'S RELIGIOUS BELIEFS.

9 (2) A COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY MEDICAL
10 EXAMINER MAY PERFORM AN AUTOPSY UNDER THE CIRCUMSTANCES DESCRIBED
11 IN SUBSECTION (1) IF THE COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY
12 MEDICAL EXAMINER DETERMINES THAT THERE IS A COMPELLING PUBLIC
13 NECESSITY FOR THE AUTOPSY. IF THE COUNTY MEDICAL EXAMINER OR
14 DEPUTY COUNTY MEDICAL EXAMINER DETERMINES THAT THERE IS A COMPEL-
15 LING PUBLIC NECESSITY FOR THE AUTOPSY, HE OR SHE SHALL NOT PER-
16 FORM THE AUTOPSY FOR A PERIOD OF 24 HOURS AFTER MAKING THE DETER-
17 MINATION OF COMPELLING PUBLIC NECESSITY. A COMPELLING PUBLIC
18 NECESSITY EXISTS FOR THE PURPOSES OF THIS SECTION IF EITHER OF
19 THE FOLLOWING CIRCUMSTANCES EXISTS:

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

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

25 (3) DURING THE 24-HOUR PERIOD DESCRIBED IN SUBSECTION (2), A
26 NEXT OF KIN DESCRIBED IN SUBSECTION (1) MAY PETITION A COURT OF
27 COMPETENT JURISDICTION TO ENJOIN THE AUTOPSY. THE NEXT OF KIN

1 SHALL INFORM THE COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY MEDICAL
2 EXAMINER IN WRITING OF THE PETITION. THE COURT IN WHICH THE
3 PETITION IS FILED SHALL CONDUCT A HEARING ON THE MATTER WITHIN 48
4 HOURS OF THE FILING OF THE PETITION. IF THE COURT FINDS THAT
5 THERE IS A COMPELLING PUBLIC NECESSITY, THE COURT SHALL ALLOW THE
6 COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY MEDICAL EXAMINER TO PER-
7 FORM THE AUTOPSY. A COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY
8 MEDICAL EXAMINER WHO PERFORMS AN AUTOPSY UNDER THIS SECTION SHALL
9 USE THE LEAST INTRUSIVE PROCEDURES ALLOWED UNDER THE
10 CIRCUMSTANCES.

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