

# HOUSE BILL NO. 6499

December 02, 2020, Introduced by Reps. Hammoud and Aiyash and referred to the Committee on Regulatory Reform.

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 and 5 (MCL 52.202 and 52.205), section 2 as amended by 2012 PA 171 and section 5 as amended by 2010 PA 108, and

by adding section 5b.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2. (1) ~~A~~**Subject to section 5b**, a county medical examiner  
2 or deputy county medical examiner shall investigate the cause and  
3 manner of death of an individual under each of the following  
4 circumstances:

5           (a) The individual dies by violence.

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

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

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

15           (2) ~~If~~**Subject to section 5b**, if a prisoner in a county or  
16 city jail dies while imprisoned, the county medical examiner or  
17 deputy county medical examiner, upon being notified of the death of  
18 the prisoner, shall examine the body of the deceased prisoner.

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

26           (4) Medical records, books, papers, documents, or other items  
27 that a county medical examiner or deputy county medical examiner

1 obtains in conducting an investigation under this act, whether in  
2 response to a subpoena or otherwise, are exempt from disclosure  
3 under the freedom of information act, 1976 PA 442, MCL 15.231 to  
4 15.246.

5 (5) As used in this act:

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

11 (b) "Physician" means an individual **who is** licensed as a  
12 physician under part 170 or part 175 of the public health code,  
13 1978 PA 368, MCL 333.17001 to ~~333.17084~~ **333.17097** and 333.17501 to  
14 333.17556.

15 (c) "Registered nurse" means an individual licensed as a  
16 registered professional nurse under part 172 of the public health  
17 code, 1978 PA 368, MCL 333.17201 to 333.17242.

18 Sec. 5. (1) If a county medical examiner has notice that the  
19 body of an individual who may have died in a manner described in  
20 section 3 has been found within the county medical examiner's  
21 county, the county medical examiner shall take charge of the body.  
22 If after examining the body and investigating the cause and manner  
23 of the death the county medical examiner considers a further  
24 examination necessary, he or she may cause the body to be removed  
25 to the public morgue. If the investigation is solely for the reason  
26 that the decedent had no medical attendance during the 48 hours  
27 immediately preceding the hour of death, and if the decedent had  
28 chosen not to have medical attendance because of his or her bona  
29 fide held religious convictions, removal is not required unless

1 there is evidence of other conditions described in section 3. If  
2 there is no public morgue, the body may be removed to a private  
3 morgue designated by the county medical examiner.

4 (2) The county medical examiner may designate a medical  
5 examiner investigator appointed under section 1a(2) to take charge  
6 of the body, make pertinent inquiry, note the circumstances  
7 surrounding the death, and, if considered necessary, cause the body  
8 to be transported to the morgue for examination by the county  
9 medical examiner. The county medical examiner shall maintain a list  
10 of medical examiner investigators appointed under section 1a(2) and  
11 their qualifications and shall file the list with the local law  
12 enforcement agencies. A medical examiner investigator appointed  
13 under section 1a(2) shall not be an agent or employee of a person  
14 or funeral establishment licensed under article 18 of the  
15 occupational code, 1980 PA 299, MCL 339.1801 to 339.1812, receive,  
16 directly or indirectly, remuneration in connection with the  
17 disposition of the body, or make funeral or burial arrangements  
18 without approval of the next of kin, if known, or the individual  
19 responsible for the funeral expenses.

20 (3) ~~The~~ **Subject to section 5b, the** county medical examiner may  
21 perform or direct to be performed an autopsy and shall carefully  
22 reduce or cause to be reduced to writing each fact and circumstance  
23 tending to show the condition of the body and the cause and manner  
24 of death, and shall include in that writing the name and address of  
25 each individual present at the autopsy. The individual performing  
26 the autopsy shall subscribe the writing described in this  
27 subsection.

28 (4) Except as otherwise provided in this subsection, the  
29 county medical examiner shall ascertain the identity of the

1 decedent and immediately and as compassionately as possible notify  
2 the next of kin of the decedent's death and the location of the  
3 body. The notification described in this subsection is not required  
4 if ~~a person~~**an individual** from the state police, a county sheriff  
5 department, a township police department, or a municipal police  
6 department states to the county medical examiner that the  
7 notification has already occurred.

8 (5) If visual identification of a decedent is impossible as a  
9 result of burns, decomposition, or other disfiguring injuries or if  
10 the county medical examiner is aware that the death is the result  
11 of an accident that involved 2 or more individuals who were  
12 approximately the same age, sex, height, weight, hair color, eye  
13 color, and race, then the county medical examiner shall verify the  
14 identity of the decedent through fingerprints, dental records, DNA,  
15 or other definitive identification procedures and, if the accident  
16 resulted in the survival of any individuals with the same  
17 attributes, shall notify the respective hospital or institution of  
18 his or her findings. The county medical examiner may conduct an  
19 autopsy under subsection (3) if he or she determines that an  
20 autopsy reasonably appears to be required pursuant to law. After  
21 the county medical examiner, a deputy, ~~a person~~**an individual** from  
22 the state police, a county sheriff department, a township police  
23 department, or a municipal police department has made diligent  
24 effort to locate and notify the next of kin, the county medical  
25 examiner may order and conduct the autopsy with or without the  
26 consent of the next of kin of the decedent. The county medical  
27 examiner or a deputy **county medical examiner** shall keep a written  
28 record of the efforts to locate and notify the next of kin for a  
29 period of 1 year from the date of the autopsy.

1           (6) Except as otherwise provided in this subsection, the  
2 county medical examiner shall promptly deliver or return the body  
3 or any portion of the body to relatives or representatives of the  
4 decedent after an examination or autopsy is performed under this  
5 section. If there are no relatives or representatives of the  
6 decedent known to the county medical examiner, he or she may cause  
7 the body to be buried pursuant to law. A county medical examiner  
8 may retain any portion of the body that he or she considers  
9 necessary to establish the cause of death, the conditions  
10 contributing to death, or the manner of death, or as evidence of  
11 any crime. Except as otherwise provided in this subsection, if a  
12 portion of the body retained is an entire organ or limb of the  
13 decedent, the county medical examiner shall attempt to verbally or  
14 in writing notify the relatives or representatives of the decedent  
15 of that retention and offer an opportunity for the relative or  
16 representative to request the return of that organ or limb. If  
17 notification is verbally made under this subsection, the county  
18 medical examiner shall follow up with written notification. The  
19 county medical examiner or a deputy **county medical examiner** shall  
20 keep a written record of the efforts to notify the relatives or  
21 representatives of the decedent under this subsection for a period  
22 of 1 year from the date of the notification or attempt to notify.  
23 This subsection does not apply to anatomical gifts made under part  
24 101 of the public health code, 1978 PA 368, MCL 333.10101 to  
25 333.10123. Upon determination that retention of the portions of the  
26 body is no longer necessary under this subsection, the county  
27 medical examiner shall do all of the following, as applicable:

28           (a) If requested in writing under this subsection, promptly  
29 deliver or return the retained organ or limb to the relatives or

1 representatives of the decedent.

2 (b) Dispose of any remaining retained body portions in the  
3 manner prescribed for medical waste under part 138 of the public  
4 health code, 1978 PA 368, MCL 333.13801 to ~~333.13831~~.**333.13832**.

5 (7) A county medical examiner or any ~~person~~**individual who is**  
6 acting under the authority of the county medical examiner who  
7 performs the medical examiner duties for the retention of body  
8 parts, as added by the amendatory act that added this subsection,  
9 ~~shall is~~ not be liable in a civil action as a result of an act or  
10 omission by ~~the person arising~~**him or her that arises** out of and in  
11 the course of ~~the person's good faith~~**his or her good-faith**  
12 performance of ~~these~~**the** medical examiner duties unless ~~that~~  
13 ~~person's~~**his or her** act or omission was the result of ~~that person's~~  
14 **his or her** negligence.

15 **Sec. 5b. (1) Subject to subsection (2), if a next of kin of**  
16 **the deceased person informs the county medical examiner or deputy**  
17 **county medical examiner that an autopsy would be contrary to a**  
18 **deceased person's religious beliefs, a county medical examiner or**  
19 **deputy county medical examiner shall only perform an autopsy on the**  
20 **body of a deceased person that meets the requirements of this**  
21 **section.**

22 (2) Subject to subsection (3), a county medical examiner or  
23 deputy county medical examiner may perform an autopsy under the  
24 circumstances described in subsection (1) if the county medical  
25 examiner or deputy county medical examiner meets all of the  
26 following:

27 (a) The medical examiner determines that there is a compelling  
28 public necessity for the autopsy. A compelling public necessity  
29 exists for the purposes of this subsection if either of the

1 following circumstances exists:

2 (i) An autopsy is necessary for the conduct of a criminal  
3 investigation by a law enforcement agency.

4 (ii) An autopsy is necessary to determine the cause of the  
5 deceased person's death in order to protect against an immediate  
6 and substantial threat to the public health.

7 (b) If the medical examiner determines that there is a  
8 compelling public necessity for the autopsy under subdivision (a),  
9 the medical examiner within 12 hours of making the determination  
10 petitions a court of competent jurisdiction to authorize the  
11 autopsy. The medical examiner shall inform the next of kin in  
12 writing of the petition. The court in which the petition is filed  
13 shall conduct a hearing on the matter within 24 hours of the filing  
14 of the petition. If the court finds that there is a compelling  
15 public necessity, the court shall authorize the county medical  
16 examiner or deputy county medical examiner to perform the autopsy  
17 under subsection (3).

18 (3) A county medical examiner or deputy county  
19 medical examiner that is authorized to perform an autopsy  
20 under subsection (2) must perform a virtual autopsy. All of the  
21 following apply for purposes of this subsection:

22 (a) The medical examiner must perform the virtual autopsy  
23 before performing any other procedure, including an internal  
24 examination of the body.

25 (b) If the medical examiner does not have the equipment  
26 necessary to perform the virtual autopsy, the medical examiner  
27 shall make arrangements to transfer the body for a virtual autopsy  
28 under this subsection to a county that has the capabilities to  
29 perform the virtual autopsy.



1 (c) If the medical examiner determines that the results of the  
2 virtual autopsy indicate that an internal examination of the body  
3 is necessary, the medical examiner shall perform the examination in  
4 the least intrusive manner as possible.

5 (d) If a body is transferred to another county for a virtual  
6 autopsy under subdivision (b), the county transferring the body  
7 shall reimburse the county performing the virtual autopsy for all  
8 costs incurred in the performance of the autopsy, except for the  
9 following:

10 (i) The deceased's next of kin are responsible for the cost of  
11 transporting the body to the county performing the virtual autopsy.

12 (ii) The county transferring the body may charge the deceased's  
13 next of kin for all costs incurred in the performance of the  
14 virtual autopsy.

15 (4) As used in this section, "virtual autopsy" means the use  
16 of computerized tomography, magnetic resonance imaging, X-rays, 3-  
17 dimensional surface scanning technology, or similar modalities in  
18 the examination of a body during an autopsy.

19 Enacting section 1. This amendatory act takes effect 90 days  
20 after the date it is enacted into law.