

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 65 Session of 2015

INTRODUCED BY GODSHALL, READSHAW, HANNA, MULLERY, MURT, SAYLOR AND BENNINGHOFF, JANUARY 21, 2015

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 5, 2015

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, providing for autopsies.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Title 20 of the Pennsylvania Consolidated
6 Statutes is amended by adding a chapter to read:

7 CHAPTER 89

8 AUTOPSIES

9 Sec.

10 8901. Definitions.

11 8902. Preparation of autopsy audiovisual material.

12 8903. Confidentiality.

13 8904. Penalties.

14 § 8901. Definitions.

15 The following words and phrases when used in this chapter
16 shall have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

1 ~~"Autopsy." An examination of a body after death to determine~~
2 ~~the:~~

3 ~~(1) cause of death; or~~

4 ~~(2) character and extent of changes produced by disease~~
5 ~~or injury.~~

6 "Autopsy audiovisual material." Any of the following:

7 (1) A photograph of the body of a decedent taken during
8 an autopsy.

9 (2) A video recording of an autopsy.

10 (3) An audio recording of an autopsy.

11 "Investigative or law enforcement officer." Any officer of
12 the United States, of another state or subdivision of another
13 state, or of the Commonwealth or a political subdivision of the
14 Commonwealth, who is empowered by law to conduct investigations
15 of or to make arrests for offenses enumerated in 18 Pa.C.S.
16 (relating to crimes and offenses) or an equivalent crime in
17 another jurisdiction and any attorney authorized by law to
18 prosecute or participate in the prosecution of such offense.
19 § 8902. Preparation of autopsy audiovisual material.

20 (a) General rule.--Autopsy audiovisual material may not be
21 prepared by an individual unless the individual has the written
22 consent of:

23 (1) the physician performing the autopsy; or

24 (2) the coroner or medical examiner authorized by law to
25 perform or order the autopsy.

26 (b) Construction.--Nothing in this section may be construed
27 to apply to an investigative or law enforcement officer who
28 prepares autopsy audiovisual material in the course of the
29 officer's duty or to administrative and managerial personnel,
30 consultants and contractors working at the direction of an

1 investigative or law enforcement officer who prepares autopsy
2 audiovisual material in the course of the officer's duty.

3 § 8903. Confidentiality.

4 (a) General rule.--

5 (1) Except as set forth under subsection (b), autopsy
6 audiovisual material is confidential. Autopsy audiovisual
7 material may not be released by any of the following:

8 (i) The physician, coroner or medical examiner who
9 performed or ordered the autopsy.

10 (ii) An individual who assisted the physician,
11 coroner or medical examiner under subparagraph (i).

12 (iii) An individual who participated in the
13 preparation of autopsy audiovisual material.

14 (iv) The facility where the autopsy was performed.

15 (2) Autopsy audiovisual material shall not be deemed
16 official records and papers of the coroner and shall not be
17 subject to section 1251 of the act of August 9, 1955
18 (P.L.323, No.130), known as The County Code.

19 (b) Exception.--Subsection (a) does not apply to a release
20 of autopsy audiovisual material in any of the following
21 circumstances:

22 (1) Pursuant to consent of the decedent or a personal
23 representative, except that during an investigation by law
24 enforcement or a coroner, the information shall only be
25 released in accordance with paragraph 5(ii) and (iii).

26 (2) To an investigative or law enforcement officer for
27 use in the course of the officer's duty.

28 (3) To the coroner or medical examiner for use in the
29 performance of official duties or training, including
30 conferral with medical or scientific experts, for teaching

1 and training.

2 (4) When an autopsy is conducted pursuant to consent of
3 the decedent or personal representative, to a physician who
4 uses the materials for teaching, training or publication in a
5 medical or scientific journal or textbook, provided the
6 identity of the decedent is redacted so as to reasonably
7 render the decedent anonymous.

8 (5) To a person pursuant to a court order of public
9 necessity or, during litigation, pursuant to a court order.
10 For an order under this paragraph, the following apply:

11 (i) There must be notice to the personal
12 representative of the subject decedent.

13 (ii) There must be a hearing.

14 (iii) The court must determine, based upon clear and
15 convincing evidence, all of the following:

16 (A) Release of the autopsy audiovisual material
17 is necessary to protect public health or safety or is
18 material and relevant to the litigation.

19 (B) The necessity under clause (A) overrides the
20 privacy interest of the decedent and the family of
21 the decedent.

22 § 8904. Penalties.

23 (a) Preparation.--An individual who violates section 8902
24 (relating to preparation of autopsy audiovisual material)
25 commits a misdemeanor of the second degree.

26 (b) Confidentiality.--An individual who violates section
27 8903 (relating to confidentiality) commits a misdemeanor of the
28 first degree.

29 Section 2. This act shall take effect in 60 days.