

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 207 Session of 2013

INTRODUCED BY GODSHALL, D. COSTA, HESS, O'NEILL, M. K. KELLER, KAUFFMAN, BOBACK, SWANGER, V. BROWN, BROOKS, PICKETT, BENNINGHOFF, KORTZ, READSHAW, MOUL, ROCK, C. HARRIS, R. MILLER, MURT, DENLINGER AND CALTAGIRONE, JANUARY 22, 2013

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 22, 2013

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

1 context clearly indicates otherwise:

2 "Autopsy." An examination of a body after death to determine <--
3 the:

4 (1) cause of death; or

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

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

8 (1) A photograph of the body of the decedent taken
9 during the autopsy.

10 (2) A video recording of the autopsy.

11 (3) An audio recording of the autopsy.

12 "Law enforcement officer." The term includes an <--
13 investigative and a prosecutorial officer.

14 "INVESTIGATIVE OR LAW ENFORCEMENT OFFICER." ANY OFFICER OF <--
15 THE UNITED STATES, OF ANOTHER STATE OR SUBDIVISION THEREOF, OR
16 OF THE COMMONWEALTH OR POLITICAL SUBDIVISION THEREOF, WHO IS
17 EMPOWERED BY LAW TO CONDUCT INVESTIGATIONS OF OR TO MAKE ARRESTS
18 FOR OFFENSES ENUMERATED IN 18 PA.C.S. (RELATING TO CRIMES AND
19 OFFENSES) OR AN EQUIVALENT CRIME IN ANOTHER JURISDICTION AND ANY
20 ATTORNEY AUTHORIZED BY LAW TO PROSECUTE OR PARTICIPATE IN THE
21 PROSECUTION OF SUCH OFFENSE.

22 § 8902. Preparation of autopsy audiovisual material.

23 (A) GENERAL RULE.--Autopsy audiovisual material may not be <--
24 prepared by an individual unless the individual has the written
25 consent of:

26 (1) the physician performing the autopsy; or

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

29 (B) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE <--
30 CONSTRUED TO APPLY TO AN INVESTIGATIVE OR LAW ENFORCEMENT

1 OFFICER WHO PREPARES AUTOPSY AUDIOVISUAL MATERIAL IN THE COURSE
2 OF THE OFFICER'S DUTY OR TO ADMINISTRATIVE AND MANAGERIAL
3 PERSONNEL, CONSULTANTS AND CONTRACTORS WORKING AT THE DIRECTION
4 OF AN INVESTIGATIVE OR LAW ENFORCEMENT OFFICER WHO PREPARES
5 AUTOPSY AUDIOVISUAL MATERIAL IN THE COURSE OF THE OFFICER'S
6 DUTY.

7 § 8903. Confidentiality.

8 (a) General rule.--

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

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

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

16 (iii) An individual who participated in the
17 preparation of autopsy audiovisual material.

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

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

23 (b) Exception.--Subsection (a) does not apply to a release
24 of autopsy audiovisual material in any of the following
25 circumstances:

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

30 ~~(2) To a Federal, State or local law enforcement officer~~<--

1 ~~in the performance of official duties.~~

2 (2) TO AN INVESTIGATIVE OR LAW ENFORCEMENT OFFICER FOR <--
3 USE IN THE COURSE OF THE OFFICER'S DUTY.

4 (3) To the coroner or medical examiner for use in the
5 performance of official duties or training, including
6 conferral with medical or scientific experts, for teaching
7 and training.

8 (4) When an autopsy is conducted pursuant to consent of
9 the decedent or personal representative, to a physician who
10 uses the materials for teaching, training or publication in a
11 medical or scientific journal or textbook, provided the
12 identity of the decedent is redacted so as to reasonably
13 render the decedent anonymous.

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

17 (i) There must be notice to the personal
18 representative of the subject decedent.

19 (ii) There must be a hearing.

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

22 (A) Release of the autopsy audiovisual material
23 is necessary to protect public health or safety or is
24 material and relevant to the litigation.

25 (B) The necessity under clause (A) overrides the
26 privacy interest of the decedent and the family of
27 the decedent.

28 § 8904. Penalties.

29 (a) Preparation.--An individual who violates section 8902
30 (relating to preparation of autopsy audiovisual material)

1 commits a misdemeanor of the second degree.

2 (b) Confidentiality.--A person that violates section 8903
3 (relating to confidentiality) commits a misdemeanor of the first
4 degree.

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