

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 298 Session of 2011

INTRODUCED BY GODSHALL, CALTAGIRONE, CREIGHTON, CUTLER, DALEY, GEIST, GIBBONS, HARPER, HESS, KAUFFMAN, KNOWLES, MILLER, OBERLANDER, O'NEILL, PASHINSKI, PICKETT, READSHAW, REICHLEY, ROCK AND SWANGER, JANUARY 27, 2011

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 27, 2011

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 the decedent.

8 (2) A video recording of the autopsy.

9 (3) An audio recording of the autopsy.

10 "Law enforcement officer." The term includes an
11 investigative and a prosecutorial officer.

12 § 8902. Preparation of autopsy audiovisual material.

13 Autopsy audiovisual material may not be prepared by an
14 individual unless the individual has the written consent of:

15 (1) the physician performing the autopsy; or

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

18 § 8903. Confidentiality.

19 (a) General rule.--

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

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

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

27 (iii) An individual who participated in the
28 preparation of autopsy audiovisual material.

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

30 (2) Autopsy audiovisual material shall not be deemed

1 official records and papers of the coroner and shall not be
2 subject to section 1251 of the act of August 9, 1955
3 (P.L.323, No.130), known as The County Code.

4 (b) Exception.--Subsection (a) does not apply to a release
5 of autopsy audiovisual material in any of the following
6 circumstances:

7 (1) Pursuant to consent of the decedent or a personal
8 representative, except that during an investigation by law
9 enforcement or a coroner, the information shall only be
10 released in accordance with paragraph (4) (ii) and (iii).

11 (2) To a Federal, State or local law enforcement officer
12 in the performance of official duties.

13 (3) To the coroner or medical examiner for use in the
14 performance of official duties or training.

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

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

20 (ii) There must be a hearing.

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

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

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

29 § 8904. Penalties.

30 (a) Preparation.--An individual who violates section 8902

1 (relating to preparation of autopsy audiovisual material)
2 commits a misdemeanor of the second degree.

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

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