

## 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, SWANGER, DENLINGER AND MILNE, JANUARY 27, 2011

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, MAY 10, 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

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.

9 (2) A video recording of the autopsy.

10 (3) An audio recording of the autopsy.

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

13 § 8902. Preparation of autopsy audiovisual material.

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

16 (1) the physician performing the autopsy; or

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

19 § 8903. Confidentiality.

20 (a) General rule.--

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

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

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

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

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

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

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

8 (1) Pursuant to consent of the decedent or a personal  
9 representative, except that during an investigation by law  
10 enforcement or a coroner, the information shall only be  
11 released in accordance with paragraph ~~(4)(ii)~~ 5(II) and ←  
12 (iii).

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

15 (3) To the coroner or medical examiner for use in the  
16 performance of official duties or training, INCLUDING ←  
17 CONFERRAL WITH MEDICAL OR SCIENTIFIC EXPERTS, FOR TEACHING  
18 AND TRAINING.

19 (4) WHEN AN AUTOPSY IS CONDUCTED PURSUANT TO CONSENT OF ←  
20 THE DECEDENT OR PERSONAL REPRESENTATIVE, TO A PHYSICIAN WHO  
21 USES THE MATERIALS FOR TEACHING, TRAINING OR PUBLICATION IN A  
22 MEDICAL OR SCIENTIFIC JOURNAL OR TEXTBOOK, PROVIDED THE  
23 IDENTITY OF THE DECEDENT IS REDACTED SO AS TO REASONABLY  
24 RENDER THE DECEDENT ANONYMOUS.

25 ~~(4)~~ (5) To a person pursuant to a court order of public ←  
26 necessity or, during litigation, pursuant to a court order.  
27 For an order under this paragraph, the following apply:

28 (i) There must be notice to the personal  
29 representative of the subject decedent.

30 (ii) There must be a hearing.

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

3           (A) Release of the autopsy audiovisual material  
4           is necessary to protect public health or safety or is  
5           material and relevant to the litigation.

6           (B) The necessity under clause (A) overrides the  
7           privacy interest of the decedent and the family of  
8           the decedent.

9   § 8904. Penalties.

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

13   (b) Confidentiality.--A person that violates section 8903  
14   (relating to confidentiality) commits a misdemeanor of the first  
15   degree.

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