

2017 -- H 5473

LC001356

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO HEALTH AND SAFETY -- OFFICE OF STATE MEDICAL EXAMINERS

Introduced By: Representatives Bennett, Kazarian, Slater, Maldonado, and Hull

Date Introduced: February 15, 2017

Referred To: House Health, Education & Welfare

(Dept. of Health)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-4-4.1 of the General Laws in Chapter 23-4 entitled "Office of  
2 State Medical Examiners" is hereby amended to read as follows:

3 **23-4-4.1. Procedure for performance of autopsies against a family's religious beliefs.**

4 (a) Notwithstanding any other provision of law, in the absence of a compelling public  
5 necessity, no dissection or autopsy shall be performed over the objection of a surviving relative or  
6 ~~friend~~ legal guardian of the deceased that the procedure is contrary to the religious belief of the  
7 decedent.

8 (b) For the purposes of this section:

9 (1) "Compelling public necessity" means:

10 (i) That the dissection or autopsy is essential to the conduct of a criminal investigation of  
11 a suspected homicide, of which the decedent is the victim,

12 (ii) That discovery of the cause of death is necessary to meet an immediate and  
13 substantial threat to the public health and that a dissection or autopsy is essential to ascertain the  
14 cause and/or manner of death, or

15 (iii) That the dissection or autopsy is necessary to obtain proper toxicologic or other  
16 specimens which may represent evidence of a crime and will deteriorate over time, or the need  
17 for a dissection or autopsy is otherwise established in accordance with subsection (e) of this  
18 section.

19 (2) "Relative" means the person most closely related to the decedent by consanguinity or

1 affinity. In the event that person is unavailable, the objection may be raised on his or her behalf  
2 by the next most closely related person. The official who has authority to order a dissection or  
3 autopsy of the decedent's body may require a relative to present an affidavit stating his or her  
4 relationship to the decedent, the religious affiliation of the decedent, if any, that the decedent had  
5 religious objection to an autopsy, the basis for that belief, and that he or she will assume  
6 responsibility for the lawful disposition of the body of the deceased.

7 (3) ~~"Friend" means any person who, prior to the decedent's death, maintained such~~  
8 ~~regular contact with the decedent as to be familiar with his or her activities, health, and religious~~  
9 ~~beliefs and who presents an affidavit stating the facts and circumstances upon which the claim~~  
10 ~~that he or she is a friend is based, the religious affiliation of the decedent, if any, that the decedent~~  
11 ~~had religious objections to an autopsy, the basis for that belief, and that he or she will assume~~  
12 ~~responsibility for the lawful disposition of the body of the deceased.~~ "Legal guardian" means any  
13 guardian established under the provisions of chapter 15.1 of title 33 entitled ("guardianship of  
14 minors.")

15 (c) All dissections or autopsies performed pursuant to this section shall be the least  
16 intrusive procedure consistent with the compelling state interest as defined in this section.

17 (d) Whenever, in the opinion of a medical examiner, there is a compelling public  
18 necessity under subsection (b)(1)(i) or (b)(1)(ii) to perform an autopsy or dissection, and a  
19 member of the deceased's immediate family or, in the absence of a member of the deceased's  
20 immediate family, ~~a friend objects that the autopsy or dissection is contrary to the religious~~  
21 ~~beliefs of the deceased or there is an obvious reason to believe, based on written information or~~  
22 ~~records provided the medical examiner,~~ a legal guardian provides written notice to the medical  
23 examiner that the autopsy or dissection is contrary to the religious beliefs of the deceased, then no  
24 dissection or autopsy shall be performed until forty-eight (48) hours after notice of the dissection  
25 or autopsy is given by the medical examiner to the objecting party, or, if there is no objecting  
26 party, to any party that the court may name. During that forty-eight (48) hour period, the  
27 objecting party or the party named by the court may institute action in the superior court to  
28 determine the propriety of the dissection or autopsy, but the court may dispense with the waiting  
29 period upon ex parte motion if it determines that the delay may prejudice the accuracy of the  
30 autopsy or dissection.

31 (e) Whenever, in the opinion of a medical examiner, there is a compelling public  
32 necessity in circumstances not provided for in subsection (b)(1)(i) or (b)(1)(ii), but authorized by  
33 § 23-4-4, to perform an autopsy or dissection, and a member of the deceased's immediate family  
34 or, in the absence of a member of the deceased's immediate family, a friend objects that the

1 autopsy or dissection is contrary to religious beliefs of the deceased or there is an obvious reason  
2 to believe, based on written information or records provided the medical examiner, that the  
3 autopsy or dissection is contrary to the religious beliefs of the deceased, then the medical  
4 examiner may institute an action in the superior court for an order authorizing the autopsy or  
5 dissection. The action shall be instituted by an order to show cause on notice to the next of kin or  
6 friend, or if none is known to the petitioner, then to any party that the court may direct, returnable  
7 at the earliest possible time. The proceeding shall have preference over all other cases in the court  
8 and shall be determined summarily upon the petition and the oral or written proof that may be  
9 offered by the parties. The court shall grant the relief sought in the petition if it finds that the  
10 petitioner has established a demonstrable need for the autopsy or dissection that, under all  
11 circumstances of the case, outweighs the state's interest in observing the decedent's religious  
12 beliefs. If the petition is denied, and no stay is granted by the court, the body shall immediately be  
13 released for burial to the surviving relative or friend.

14 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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RELATING TO HEALTH AND SAFETY -- OFFICE OF STATE MEDICAL EXAMINERS

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1           This act would allow legal guardians to notify the medical examiner that the performance  
2 of an autopsy was against a family's religious beliefs. Friends, without legal status, would no  
3 longer be able to provide this information.

4           This act would take effect upon passage.

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