

As Introduced

127th General Assembly
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H. B. No. 523

Representative Domenick

Cosponsors: Representatives Fende, McGregor, J., Szollosi, Yuko

—

A BILL

To amend section 313.131 and to enact section 313.124 1
of the Revised Code to require a coroner, deputy 2
coroner, or pathologist to administer chemical 3
tests to the blood of a deceased person who died 4
by suicide or in any suspicious or unusual manner 5
when the tests are requested and paid for by a 6
family member of the deceased and to clarify that 7
the results of the tests are public records. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 313.131 be amended and section 9
313.124 of the Revised Code be enacted to read as follows: 10

Sec. 313.124. (A) If requested by a family member of a 11
deceased person, the coroner, deputy coroner, or pathologist shall 12
administer a chemical test to the blood of the deceased person to 13
determine the alcohol, drug, or alcohol and drug content of the 14
blood if both of the following are true: 15

(1) The coroner, deputy coroner, or pathologist is notified 16
or determines that the deceased person died by suicide or in a 17
suspicious or unusual manner. 18

(2) The full cost of the chemical test is paid for by the 19

family member making the request. 20

(B) Division (A) of this section does not authorize the 21
coroner, deputy coroner, or pathologist to perform an autopsy, and 22
does not affect the provisions of section 313.131 of the Revised 23
Code that govern the determination of whether and when an autopsy 24
is performed. 25

(C) The results of a chemical test administered pursuant to 26
division (A) of this section are public records as described in 27
division (A)(1) of section 313.10 of the Revised Code and shall be 28
made available to any person for inspection and copying as 29
described in division (B) of section 313.10 of the Revised Code. 30

Sec. 313.131. (A) As used in this section: 31

(1) "Friend" means any person who maintained regular contact 32
with the deceased person, and who was familiar with the deceased 33
person's activities, health, and religious beliefs at the time of 34
the deceased person's death, any person who assumes custody of the 35
body for burial, and any person authorized by written instrument, 36
executed by the deceased person to make burial arrangements. 37

(2) "Relative" means any of the following persons: the 38
deceased person's surviving spouse, children, parents, or 39
siblings. 40

(B) The coroner, deputy coroner, or pathologist shall perform 41
an autopsy if, in the opinion of the coroner, or, in ~~his~~ the 42
coroner's absence, in the opinion of the deputy coroner, an 43
autopsy is necessary, except for certain circumstances provided 44
for in this section where a relative or friend of the deceased 45
person informs the coroner that an autopsy is contrary to the 46
deceased person's religious beliefs, or the coroner otherwise has 47
reason to believe that an autopsy is contrary to the deceased 48
person's religious beliefs. The coroner has such reason to believe 49

an autopsy is contrary to the deceased person's religious beliefs 50
if a document signed by the deceased and stating an objection to 51
an autopsy is found on the ~~deceased's~~ deceased person or in ~~his~~ 52
the deceased person's effects. For the purposes of this division, 53
a person is a relative or friend of the deceased person if the 54
person presents an affidavit stating that ~~he~~ the person is a 55
relative or friend as defined in division (A) of this section. 56

(C)(1) Except as provided in division (F) of this section, if 57
a relative or friend of the deceased person informs the coroner 58
that an autopsy is contrary to the deceased person's religious 59
beliefs, or the coroner otherwise has reason to believe that an 60
autopsy is contrary to the deceased person's religious beliefs, 61
and the coroner concludes the autopsy is a compelling public 62
necessity, no autopsy shall be performed for forty-eight hours 63
after the coroner takes charge of the deceased person. An autopsy 64
is a compelling public necessity if it is necessary to the conduct 65
of an investigation by law enforcement officials of a homicide or 66
suspected homicide, or any other criminal investigation, or is 67
necessary to establish the cause of the deceased person's death 68
for the purpose of protecting against an immediate and substantial 69
threat to the public health. During the forty-eight hour period, 70
the objecting relative or friend may file suit to enjoin the 71
autopsy, and shall give notice of any such filing to the coroner. 72
The coroner may seek an order waiving the forty-eight hour waiting 73
period. If the coroner seeks such an order, the court shall give 74
notice of the coroner's motion, by telephone if necessary, to the 75
objecting relative or friend, or, if none objected, to all of the 76
deceased person's relatives whose addresses or telephone numbers 77
can be obtained through the exercise of reasonable diligence. The 78
court may grant the coroner's motion if the court determines that 79
no friend or relative of the deceased person objects to the 80
autopsy or if the court is satisfied that any objections of a 81
friend or relative have been heard, and if it also determines that 82

the delay may prejudice the accuracy of the autopsy, or if law 83
enforcement officials are investigating the deceased person's 84
death as a homicide and suspect the objecting party committed the 85
homicide or aided or abetted in the homicide. If no friend or 86
relative files suit within the forty-eight hour period, the 87
coroner may proceed with the autopsy. 88

(2) The court shall hear a petition to enjoin an autopsy 89
within forty-eight hours after the filing of the petition. The 90
Rules of Civil Procedure shall govern all aspects of the 91
proceedings, except as otherwise provided in division (C)(2) of 92
this section. The court is not bound by the ~~rules of evidence~~ 93
Rules of Evidence in the conduct of the hearing. The court shall 94
order the autopsy if the court finds that under the circumstances 95
the coroner has demonstrated a need for the autopsy. If the court 96
enjoins the autopsy, the coroner shall immediately proceed under 97
section 313.14 of the Revised Code. 98

(D)(1) If a relative or friend of the decedent informs the 99
coroner that an autopsy is contrary to the deceased person's 100
religious beliefs, or the coroner otherwise has reason to believe 101
that an autopsy is contrary to the deceased person's religious 102
beliefs, and the coroner concludes the autopsy is necessary, but 103
not a compelling public necessity, the coroner may file a petition 104
in a court of common pleas seeking a declaratory judgment 105
authorizing the autopsy. Upon the filing of the petition, the 106
court shall schedule a hearing on the petition, and shall issue a 107
summons to the objecting relative or friend, or, if none objected, 108
to all of the deceased person's relatives whose addresses can be 109
obtained through the exercise of reasonable diligence. The court 110
shall hold the hearing no later than forty-eight hours after the 111
filing of the petition. The court shall conduct the hearing in the 112
manner provided in division (C)(2) of this section. 113

(2) Each person claiming to be a relative or friend of the 114

deceased person shall immediately upon receipt of the summons file 115
an affidavit with the court stating the facts upon which the claim 116
is based. If the court finds that any person is falsely 117
representing ~~himself~~ self as a relative or friend of the deceased 118
person, the court shall dismiss the person from the action. If 119
after dismissal no objecting party remains, and the coroner does 120
not have reason to believe that an autopsy is contrary to the 121
deceased person's religious beliefs, the court shall dismiss the 122
action and the coroner may proceed with the autopsy. The court 123
shall order the autopsy after hearing the petition if the court 124
finds that under the circumstances the coroner has demonstrated a 125
need for the autopsy. The court shall waive the payment of all 126
court costs in the action. If the petition is denied, the coroner 127
shall immediately proceed under section 313.14 of the Revised 128
Code. 129

Any autopsy performed pursuant to a court order granting an 130
autopsy shall be performed using the least intrusive procedure. 131

(E) For purposes of divisions (B), (C)(1), and (D)(1) of this 132
section, any time the friends or relatives of a deceased person 133
disagree about whether an autopsy is contrary to the deceased 134
person's religious beliefs, the coroner shall consider only the 135
information provided to ~~him~~ the coroner by the person of highest 136
priority, as determined by which is listed first among the 137
following: 138

(1) The deceased person's surviving spouse; 139

(2) An adult son or daughter of the deceased person; 140

(3) Either parent of the deceased person; 141

(4) An adult brother or sister of the deceased person; 142

(5) The guardian of the person of the deceased person at the 143
time of death; 144

(6) A person other than those listed in divisions (E)(1) to 145
(5) of this section who is a friend as defined in division (A) of 146
this section. 147

If two or more persons of equal priority disagree about 148
whether an autopsy is contrary to the deceased person's religious 149
beliefs, and those persons are also of the highest priority among 150
those who provide the coroner with information the coroner has 151
reason to believe that an autopsy is contrary to the deceased 152
person's religious beliefs. 153

(F)(1) Divisions (C)(1) and (2) of this section do not apply 154
in any case involving aggravated murder, suspected aggravated 155
murder, murder, suspected murder, manslaughter offenses, or 156
suspected manslaughter offenses. 157

(2) This section does not prohibit the coroner, deputy 158
coroner, or pathologist from administering a chemical test to the 159
blood of a deceased person to determine the alcohol, drug, or 160
alcohol and drug content of the blood, when required by division 161
(B) of section 313.13 or division (A) of section 313.124 of the 162
Revised Code, and does not limit the coroner, deputy coroner, or 163
pathologist in the performance of his the coroner's, deputy 164
coroner's, or pathologist's duties in administering a chemical 165
test under ~~that division~~ those divisions. 166

Section 2. That existing section 313.131 of the Revised Code 167
is hereby repealed. 168