

As Introduced

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H. B. No. 228

Representative Domenick

**Cosponsors: Representatives Bacon, Boyd, Fende, Foley, Hagan,
Mecklenborg, Murray, Stewart, Winburn, Yuko**

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A B I L L

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 a blood test 3
for alcohol or drugs when a person has died by 4
suicide or in an unusual manner and the test is 5
requested and paid for by a family member. 6

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

Section 1. That section 313.131 be amended and section 7
313.124 of the Revised Code be enacted to read as follows: 8

Sec. 313.124. (A) If requested by a family member of a 9
deceased person, the coroner, deputy coroner, or pathologist shall 10
administer a chemical test to the blood of the deceased person to 11
determine the alcohol, drug, or alcohol and drug content of the 12
blood if both of the following are the case: 13

(1) The coroner, deputy coroner, or pathologist is notified 14
or determines that the deceased person died by suicide or in a 15
suspicious or unusual manner. 16

(2) The full cost of the chemical test is paid for by the 17
family member making the request. 18

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

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

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

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

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

(B) The coroner, deputy coroner, or pathologist shall perform an autopsy if, in the opinion of the coroner, or, in ~~his~~ the coroner's absence, in the opinion of the deputy coroner, an autopsy is necessary, except for certain circumstances provided for in this section where a relative or friend of the deceased person informs the coroner that an autopsy is contrary to the deceased person's religious beliefs, or the coroner otherwise has reason to believe that an autopsy is contrary to the deceased person's religious beliefs. The coroner has such reason to believe an autopsy is contrary to the deceased person's religious beliefs if a document signed by the deceased and stating an objection to

an autopsy is found on the ~~deceased's~~ deceased person or in ~~his~~ 50
the deceased person's effects. For the purposes of this division, 51
a person is a relative or friend of the deceased person if the 52
person presents an affidavit stating that ~~he~~ the person is a 53
relative or friend as defined in division (A) of this section. 54

(C)(1) Except as provided in division (F) of this section, if 55
a relative or friend of the deceased person informs the coroner 56
that an autopsy is contrary to the deceased person's religious 57
beliefs, or the coroner otherwise has reason to believe that an 58
autopsy is contrary to the deceased person's religious beliefs, 59
and the coroner concludes the autopsy is a compelling public 60
necessity, no autopsy shall be performed for forty-eight hours 61
after the coroner takes charge of the deceased person. An autopsy 62
is a compelling public necessity if it is necessary to the conduct 63
of an investigation by law enforcement officials of a homicide or 64
suspected homicide, or any other criminal investigation, or is 65
necessary to establish the cause of the deceased person's death 66
for the purpose of protecting against an immediate and substantial 67
threat to the public health. During the forty-eight hour period, 68
the objecting relative or friend may file suit to enjoin the 69
autopsy, and shall give notice of any such filing to the coroner. 70
The coroner may seek an order waiving the forty-eight hour waiting 71
period. If the coroner seeks such an order, the court shall give 72
notice of the coroner's motion, by telephone if necessary, to the 73
objecting relative or friend, or, if none objected, to all of the 74
deceased person's relatives whose addresses or telephone numbers 75
can be obtained through the exercise of reasonable diligence. The 76
court may grant the coroner's motion if the court determines that 77
no friend or relative of the deceased person objects to the 78
autopsy or if the court is satisfied that any objections of a 79
friend or relative have been heard, and if it also determines that 80
the delay may prejudice the accuracy of the autopsy, or if law 81
enforcement officials are investigating the deceased person's 82

death as a homicide and suspect the objecting party committed the 83
homicide or aided or abetted in the homicide. If no friend or 84
relative files suit within the forty-eight hour period, the 85
coroner may proceed with the autopsy. 86

(2) The court shall hear a petition to enjoin an autopsy 87
within forty-eight hours after the filing of the petition. The 88
Rules of Civil Procedure shall govern all aspects of the 89
proceedings, except as otherwise provided in division (C)(2) of 90
this section. The court is not bound by the ~~rules of evidence~~ 91
Rules of Evidence in the conduct of the hearing. The court shall 92
order the autopsy if the court finds that under the circumstances 93
the coroner has demonstrated a need for the autopsy. If the court 94
enjoins the autopsy, the coroner shall immediately proceed under 95
section 313.14 of the Revised Code. 96

(D)(1) If a relative or friend of the decedent informs the 97
coroner that an autopsy is contrary to the deceased person's 98
religious beliefs, or the coroner otherwise has reason to believe 99
that an autopsy is contrary to the deceased person's religious 100
beliefs, and the coroner concludes the autopsy is necessary, but 101
not a compelling public necessity, the coroner may file a petition 102
in a court of common pleas seeking a declaratory judgment 103
authorizing the autopsy. Upon the filing of the petition, the 104
court shall schedule a hearing on the petition, and shall issue a 105
summons to the objecting relative or friend, or, if none objected, 106
to all of the deceased person's relatives whose addresses can be 107
obtained through the exercise of reasonable diligence. The court 108
shall hold the hearing no later than forty-eight hours after the 109
filing of the petition. The court shall conduct the hearing in the 110
manner provided in division (C)(2) of this section. 111

(2) Each person claiming to be a relative or friend of the 112
deceased person shall immediately upon receipt of the summons file 113
an affidavit with the court stating the facts upon which the claim 114

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

Any autopsy performed pursuant to a court order granting an 128
autopsy shall be performed using the least intrusive procedure. 129

(E) For purposes of divisions (B), (C)(1), and (D)(1) of this 130
section, any time the friends or relatives of a deceased person 131
disagree about whether an autopsy is contrary to the deceased 132
person's religious beliefs, the coroner shall consider only the 133
information provided to ~~him~~ the coroner by the person of highest 134
priority, as determined by which is listed first among the 135
following: 136

(1) The deceased person's surviving spouse; 137

(2) An adult son or daughter of the deceased person; 138

(3) Either parent of the deceased person; 139

(4) An adult brother or sister of the deceased person; 140

(5) The guardian of the person of the deceased person at the 141
time of death; 142

(6) A person other than those listed in divisions (E)(1) to 143
(5) of this section who is a friend as defined in division (A) of 144

this section. 145

If two or more persons of equal priority disagree about 146
whether an autopsy is contrary to the deceased person's religious 147
beliefs, and those persons are also of the highest priority among 148
those who provide the coroner with information the coroner has 149
reason to believe that an autopsy is contrary to the deceased 150
person's religious beliefs. 151

(F)(1) Divisions (C)(1) and (2) of this section do not apply 152
in any case involving aggravated murder, suspected aggravated 153
murder, murder, suspected murder, manslaughter offenses, or 154
suspected manslaughter offenses. 155

(2) This section does not prohibit the coroner, deputy 156
coroner, or pathologist from administering a chemical test to the 157
blood of a deceased person to determine the alcohol, drug, or 158
alcohol and drug content of the blood, when required by division 159
(B) of section 313.13 or division (A) of section 313.124 of the 160
Revised Code, and does not limit the coroner, deputy coroner, or 161
pathologist in the performance of ~~his~~ the coroner's, deputy 162
coroner's, or pathologist's duties in administering a chemical 163
test under ~~that division~~ those divisions. 164

Section 2. That existing section 313.131 of the Revised Code 165
is hereby repealed. 166