

# HOUSE BILL NO. 4124

February 05, 2019, Introduced by Rep. Cole and referred to the Committee on Local Government and Municipal Finance.

A bill to amend 1953 PA 181, entitled

"An act relative to investigations in certain instances of the causes of death within this state due to violence, negligence or other act or omission of a criminal nature or to protect public health; to provide for the taking of statements from injured persons under certain circumstances; to abolish the office of coroner and to create the office of county medical examiner in certain counties; to prescribe the powers and duties of county medical examiners; to prescribe penalties for violations of the provisions of this act; and to prescribe a referendum thereon,"

by amending section 5 (MCL 52.205), as amended by 2010 PA 108.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 5. (1) If a county medical examiner has notice that the  
 2 body of an individual who may have died in a manner described in  
 3 section 3 has been found within the county medical examiner's  
 4 county, the county medical examiner shall take charge of the body.  
 5 If after examining the body and investigating the cause and manner  
 6 of the death the county medical examiner considers a further  
 7 examination necessary, he or she may cause the body to be removed  
 8 to the public morgue. If the investigation is solely for the reason  
 9 that the decedent had no medical attendance during the 48 hours  
 10 immediately preceding the hour of death, and if the decedent had  
 11 chosen not to have medical attendance because of his or her bona  
 12 fide held religious convictions, removal is not required unless  
 13 there is evidence of other conditions described in section 3. If  
 14 there is no public morgue, the body may be removed to a private  
 15 morgue designated by the county medical examiner.

16           (2) The county medical examiner may designate a medical  
 17 examiner investigator appointed under section 1a(2) to take charge  
 18 of the body, make pertinent inquiry, note the circumstances  
 19 surrounding the death, and, if considered necessary, cause the body  
 20 to be transported to the morgue for examination by the county  
 21 medical examiner. The county medical examiner shall maintain a list  
 22 of medical examiner investigators appointed under section 1a(2) and  
 23 their qualifications and shall file the list with the local law  
 24 enforcement agencies. A medical examiner investigator appointed  
 25 under section 1a(2) ~~shall~~**must** not **do any of the following:** ~~be~~

26           **(a) Except in a county with a population of 50,000 or less as**  
 27 **determined by the most recent federal decennial census, be** an agent  
 28 or employee of a person or funeral establishment licensed under

1 article 18 of the occupational code, 1980 PA 299, MCL 339.1801 to  
2 339.1812. ~~receive~~

3 **(b) Except in a county with a population of 50,000 or less as**  
4 **determined by the most recent federal decennial census, receive**  
5 directly or indirectly, remuneration in connection with the  
6 disposition of the body. ~~or make~~

7 **(c) Make** funeral or burial arrangements without approval of  
8 the next of kin, if known, or the individual responsible for the  
9 funeral expenses.

10 (3) The county medical examiner may perform or direct to be  
11 performed an autopsy and shall carefully reduce or cause to be  
12 reduced to writing each fact and circumstance tending to show the  
13 condition of the body and the cause and manner of death, and shall  
14 include in that writing the name and address of each individual  
15 present at the autopsy. The individual performing the autopsy shall  
16 subscribe the writing described in this subsection.

17 (4) Except as otherwise provided in this subsection, the  
18 county medical examiner shall ascertain the identity of the  
19 decedent and immediately and as compassionately as possible notify  
20 the next of kin of the decedent's death and the location of the  
21 body. The notification described in this subsection is not required  
22 if a person from the state police, a county sheriff department, a  
23 township police department, or a municipal police department states  
24 to the county medical examiner that the notification has already  
25 occurred.

26 (5) If visual identification of a decedent is impossible as a  
27 result of burns, decomposition, or other disfiguring injuries or if  
28 the county medical examiner is aware that the death is the result  
29 of an accident that involved 2 or more individuals who were

1 approximately the same age, sex, height, weight, hair color, eye  
2 color, and race, then the county medical examiner shall verify the  
3 identity of the decedent through fingerprints, dental records, DNA,  
4 or other definitive identification procedures and, if the accident  
5 resulted in the survival of any individuals with the same  
6 attributes, shall notify the respective hospital or institution of  
7 his or her findings. The county medical examiner may conduct an  
8 autopsy under subsection (3) if he or she determines that an  
9 autopsy reasonably appears to be required pursuant to law. After  
10 the county medical examiner, a deputy, a person from the state  
11 police, a county sheriff department, a township police department,  
12 or a municipal police department has made diligent effort to locate  
13 and notify the next of kin, the county medical examiner may order  
14 and conduct the autopsy with or without the consent of the next of  
15 kin of the decedent. The county medical examiner or a deputy shall  
16 keep a written record of the efforts to locate and notify the next  
17 of kin for a period of 1 year from the date of the autopsy.

18 (6) Except as otherwise provided in this subsection, the  
19 county medical examiner shall promptly deliver or return the body  
20 or any portion of the body to relatives or representatives of the  
21 decedent after an examination or autopsy is performed under this  
22 section. If there are no relatives or representatives of the  
23 decedent known to the county medical examiner, he or she may cause  
24 the body to be buried pursuant to law. A county medical examiner  
25 may retain any portion of the body that he or she considers  
26 necessary to establish the cause of death, the conditions  
27 contributing to death, or the manner of death, or as evidence of  
28 any crime. Except as otherwise provided in this subsection, if a  
29 portion of the body retained is an entire organ or limb of the

1 decedent, the county medical examiner shall attempt to verbally or  
 2 in writing notify the relatives or representatives of the decedent  
 3 of that retention and offer an opportunity for the relative or  
 4 representative to request the return of that organ or limb. If  
 5 notification is verbally made under this subsection, the county  
 6 medical examiner shall follow up with written notification. The  
 7 county medical examiner or a deputy shall keep a written record of  
 8 the efforts to notify the relatives or representatives of the  
 9 decedent under this subsection for a period of 1 year from the date  
 10 of the notification or attempt to notify. This subsection does not  
 11 apply to anatomical gifts made under part 101 of the public health  
 12 code, 1978 PA 368, MCL 333.10101 to 333.10123. Upon determination  
 13 that retention of the portions of the body is no longer necessary  
 14 under this subsection, the county medical examiner shall do all of  
 15 the following, as applicable:

16 (a) If requested in writing under this subsection, promptly  
 17 deliver or return the retained organ or limb to the relatives or  
 18 representatives of the decedent.

19 (b) Dispose of any remaining retained body portions in the  
 20 manner prescribed for medical waste under part 138 of the public  
 21 health code, 1978 PA 368, MCL 333.13801 to ~~333.13831~~. **333.13832**.

22 (7) A county medical examiner or any person acting under the  
 23 authority of the county medical examiner who performs the medical  
 24 examiner duties for the retention of body parts, as added by the  
 25 amendatory act that added this subsection, ~~shall~~ **is** not be liable  
 26 in a civil action as a result of an act or omission by the person  
 27 arising out of and in the course of the person's good faith  
 28 performance of those medical examiner duties unless that person's  
 29 act or omission was the result of that person's negligence.

1           Enacting section 1. This amendatory act takes effect 90 days  
2 after the date it is enacted into law.