



# House of Representatives

General Assembly

**File No. 466**

*January Session, 2001*

Substitute House Bill No. 5426

*House of Representatives, April 25, 2001*

The Committee on Public Health reported through REP. EBERLE of the 15th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING STANDARDIZED INFORMED AUTOPSY CONSENT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 19a-286 of the general statutes is repealed and the following  
2 is substituted in lieu thereof:

3 (a) Whenever any person dies and no postmortem examination or  
4 autopsy has been ordered pursuant to subsection (b) of section 19a-  
5 406, no physician shall conduct or assist in conducting any  
6 postmortem examination or autopsy upon the body of such deceased  
7 person without first obtaining the consent of whichever one of the  
8 following persons, eighteen years of age or older, assumes custody of  
9 the body for the purposes of burial: Father, mother, husband, wife,  
10 child, guardian, next of kin, [friend] a person designated by the  
11 deceased person in accordance with section 45a-318 or any person  
12 charged by law with the responsibility for burial. If two or more  
13 persons assume custody of the body, consent of one of them shall be

14 deemed sufficient. [Any] Prior to January 1, 2002, any such consent  
15 may be in writing or may be given by telegram, and any telegram  
16 purporting to have been sent by a person authorized to give such  
17 consent shall be conclusively presumed to have been sent by such  
18 person, or may be given by telephone, provided a record of any such  
19 consent by telephone shall be kept by such physician for not less than  
20 three years. On and after January 1, 2002, such consent shall be made  
21 pursuant to subsection (c) of this section, provided such consent may  
22 be communicated in person, by telephone, electronically, by mail or by  
23 courier. If the physician who is to conduct or assist in conducting any  
24 postmortem examination or autopsy, after due inquiry and diligence,  
25 is unable to find any person authorized to give consent as provided for  
26 [herein] in this subsection, such postmortem examination or autopsy  
27 may be made by such physician without such consent but only after a  
28 reasonable time, which shall not be less than twelve hours nor more  
29 than forty-eight hours, has elapsed. Any person violating any  
30 provision of this subsection or subsection (b) of this section shall be  
31 fined not more than five hundred dollars.

32 (b) Any person authorized to consent to an autopsy under  
33 subsection (a) of this section may require that if an autopsy is  
34 performed it be performed by, or attended by, a physician who is not  
35 affiliated with the institution where the deceased person died. The  
36 physician seeking consent to an autopsy shall inform the person  
37 authorized to give consent of the right to request performance or  
38 attendance by a nonaffiliated physician, provided the person  
39 requesting such performance or attendance by a nonaffiliated  
40 physician shall be responsible for any additional costs incurred by  
41 reason of such performance or attendance. Such information shall be  
42 given orally and shall be included in [any written consent form] the  
43 documented and witnessed consent developed pursuant to  
44 subdivision (3) of subsection (c) of this section.

45 (c) Not later than January 1, 2002, the Commissioner of Public

46 Health, in consultation with the Chief Medical Examiner, shall develop  
47 criteria for informed autopsy consent that: (1) Includes clear  
48 information naming the institution and department that will perform  
49 the autopsy; (2) provides the family of the deceased person with an  
50 opportunity to place any restrictions or limitations on the autopsy or to  
51 express any concerns that they may have; and (3) provides for  
52 documented and witnessed consent.

**PH**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** Potential Minimal Revenue Gain

**Affected Agencies:** Department of Public Health, Office of the Chief Medical Examiner

**Municipal Impact:** None

**Explanation**

**State Impact:**

It is anticipated that the Department of Public Health will be able to develop criteria for informed autopsy consent within its anticipated budgetary resources. The Office of the Chief Medical Examiner will incur no additional costs in the course of consulting with the department.

A minimal revenue gain may result to the extent that fines are imposed upon: (1) physicians failing to inform persons giving consent to an autopsy about their right to request the participation of a nonaffiliated physician, or (2) persons failing to pay a nonaffiliated physician for his or her attendance at an autopsy. A fine of up to \$500 may be imposed.

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**OLR Bill Analysis**

sHB 5426

***AN ACT CONCERNING STANDARDIZED AUTOPSY CONSENT FORMS.***

**SUMMARY:**

Unless the Chief Medical Examiner's Office performs it, the law prohibits a physician from performing an autopsy without the consent of the person who assumes custody of the body. Beginning January 1, 2002, this bill requires that consent to be documented and witnessed according to informed consent criteria the Department of Public Health (DPH) commissioner develops in consultation with the chief medical examiner.

These criteria must also provide for (1) the deceased's family (but apparently not his guardian or other person he designates in writing before a notary or court officer to assume custody of his body) to have an opportunity to limit the autopsy or express their concerns and (2) clearly naming the institution and department that will perform the autopsy.

The bill specifies that, after December 31, 2001, consent can be communicated in person; by mail, telephone, or courier; or electronically, as long as it is witnessed and documented. Currently consent may be given in writing or by telegram or telephone; it need not be witnessed. If it is by telephone, the physician must keep a record of it for at least three years. The bill makes no similar provision for consent granted after December 31, 2001.

The law allows the person consenting to require a physician who is not affiliated with the institution where the deceased died to perform or attend the autopsy. The bill makes that person responsible for any extra costs this involves. And it requires the physician seeking consent for the autopsy to convey this responsibility orally and on the consent form the DPH commissioner develops. (But the bill does not require

this form to be available until January 1, 2002, three months after this provision takes effect.) The bill subjects anyone who fails to provide the proper information for consent and, potentially, anyone who fails to pay a nonaffiliated physician, to a fine of up to \$500.

Finally, the bill adds a person the deceased designated in writing before a court officer to the list of people who can consent to an autopsy, and it eliminates from the list a friend of the deceased.

EFFECTIVE DATE: October 1, 2001

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 25      Nay 0