

**STATEMENT OF THE FREEDOM OF INFORMATION COMMISSION ON
RAISED BILL 1054, AN ACT CONCERNING THE DISCLOSURE OF
AUTOPSY REPORTS**

February 28, 2011

The Freedom of Information Commission would like to take this opportunity to comment on RB1054, An Act Concerning the Disclosure of Autopsy Reports.

The FOIC is sympathetic to the purpose behind subsection (e) of RB 1054. However, the Commission has some concerns about the proposed language, and suggests that there are already adequate safeguards built into current law to protect against abuse.

The proposed bill gives the parent of a child homicide victim the sole authority to decide whether the Chief Medical Examiner may disclose the results of his or her examination and investigation of death, including the autopsy report and other scientific findings.

- Current law already prohibits almost all disclosure of medical examiner's reports and scientific findings.
- Under current law, the general public, including the media, can obtain the medical examiner's reports *only* if the deceased died in state custody. (This provision was added by the legislature in 2002: Public Act 137.)
- Other than reports concerning a person who died in state custody, disclosure by the medical examiner is extremely limited, and is permitted only to:
 - A person with "a legitimate interest" in the records (such as a family member, an executor, an insurance claim agent, not the general public);
 - Medical, legal or scientific institutions, but researchers are prohibited from disclosing any information that would identify deceased persons.
 - Defense counsel of record or a pro se litigant in the criminal case.

The medical examiner or the state's attorney may seek a court order from the superior court to block disclosure of any part of the medical examiner's report, in any situation, even where the deceased was in state custody, or where a person has a legitimate interest, is a researcher, or a defense attorney or a defendant.

- Under the proposed bill, a parent can veto the Chief Medical Examiner's decision, and can block any disclosure, even without a court order.
 - As proposed, a parent could block disclosure even if the parent is the accused.

- As proposed, if a child dies in the custody of the state, a parent could block disclosure of the medical examiner's reports. If the parental rights were terminated, and the child was a ward of the state, could the state (as *loco parentis*) then block disclosure of the investigation of the death reports on a child who died in state custody?
- What happens if the child's parents disagree as to whether the reports should be disclosed?
- Does a parent's objection bar disclosure in perpetuity?

The FOIC believes that the current law strikes an effective balance between the public interest in the records of the Office of the Chief Medical Examiner and the privacy concerns of the parents of a child homicide victim. The FOIC respectfully urges the legislature not to enact subsection (e) of RB 1054.

The FOIC would welcome the opportunity to work with this Committee and others to revise subsection (e) of RB 1054 so that the new law will accomplish its intended purpose.

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