

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6510

BILL NUMBER: HB 1417

NOTE PREPARED: Apr 30, 2003

BILL AMENDED: Apr 8, 2003

SUBJECT: Autopsy of a Child.

FIRST AUTHOR: Rep. Budak

FIRST SPONSOR: Sen. C. Lawson

BILL STATUS: Enrolled

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: (Amended) This bill requires a county coroner to have an autopsy performed on the body of a child whose death is sudden and unexpected except in certain circumstances, including when the child's next of kin requests that an autopsy not be performed.

This bill permits a physician or coroner to use a photograph, a video recording, or an audio recording of an autopsy to consult with a forensic scientist or pathologist. It describes identifying information that must be masked or removed from an autopsy photograph, video recording, or audio recording before it may be used for training or educational purposes.

The bill makes it a Class A misdemeanor for a physician, coroner, or coroner's designee to fail to warn each person to whom the information is released that the information is confidential and may not be used for a purpose other than the purpose for which it was originally released. It also makes it a Class A misdemeanor for: (1) a person who is granted access to autopsy information for training, education, or professional consultation to use it for a purpose other than the purpose for which it was originally released; (2) a coroner or coroner's designee who is custodian of a photograph or recording of an autopsy to violate the provisions concerning autopsy records; (3) a person who uses autopsy information in a manner other than for the purpose for which it is intended; and (4) a person to violate a court order issued under the law concerning autopsy records.

The bill makes a technical correction.

Effective Date: July 1, 2003.

Explanation of State Expenditures: (Revised) *Penalty Provision* - This provision changes the penalty for knowingly or intentionally violating the law pertaining to autopsy records from a Class D felony to a Class A misdemeanor. The provision also makes it a Class A misdemeanor for failing to disclose confidentiality restrictions for using autopsy information and for knowingly or intentionally using autopsy information for reasons other than specified.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: (Revised) *Penalty Provision* - If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: (Revised) Currently, a county coroner will have an autopsy performed if the coroner considers it necessary or if the prosecuting attorney of the county requests an autopsy. This bill requires a county coroner to have an autopsy performed on a child aged one week to three years old and whose death is sudden and unexpected, unless certain other conditions are met.

The bill provides for the expense of the autopsy to be paid by the county. According to current law, physicians who perform autopsies shall be paid a fee of at least \$50 from the county treasury. The average cost that counties pay for an autopsy is found to be around \$950 to \$1,600, depending on individual circumstances. The fiscal impact of this bill is indeterminable because it is not known how many children between the ages of one week and three years will die suddenly and unexpectedly. The Indiana Department of Health reported that 676 children under age one and 142 children ages one through four died in 2000. There are approximately 325,343 children ages zero to three in Indiana, according to the 2000 census.

Penalty Provision - A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: (Revised) *Penalty Provision* - If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing

education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: County Coroners' offices, trial courts, local law enforcement agencies.

Information Sources: Department of Health, *Indiana Mortality Report*, Table 4 - Deaths by Cause, Age, Race, and Sex: Indiana Residents, 2000; United States Census; Allen County Coroner; Marion county Coroner; Tippecanoe County Coroner. Indiana Sheriffs Association, Department of Correction.

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