

# HOUSE RESEARCH

## Bill Summary

**FILE NUMBER:** H.F. 1935  
**Version:** First engrossment

**DATE:** March 24, 2015

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**Subject:** Religious exemptions for autopsies

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### Overview

This bill creates a requirement for coroners and medical examiners to notify families that they plan to perform an autopsy and an exemption to current law which allows families of deceased individuals to raise an objection to an autopsy based on religious beliefs under certain circumstances.

#### Section

- 1**      **Communication with family during a death investigation.** Requires coroners or medical examiners to have a policy about how to communicate with families during the investigation of a death.
- 2**      **Reports of death.** Provides that the current law on the determination of an investigation, including an autopsy, that is done by a coroner or medical examiner is subject to a religious exemption, the new religious exemption is found in section 4 of the bill.
- 3**      **Autopsies.** Provides that the current law on the determination to perform an autopsy, including various testing and tissue samples, is subject to the religious exemption created in section 4 of the bill.
- 4**      **Religious objections to autopsy.** Creates a requirement that a coroner or medical examiner must provide notice to the surviving relatives of the decedent at least 24 hours prior to performing the autopsy with information related to their right to object to the testing or autopsy based on religious grounds. This section also allows the coroner or medical examiner to do the autopsy if no family member can be located and requires the coroner or medical examiner to keep a record of any communication with the family.

## Section

This bill provides what information the relative or designee in a will or health care directive must provide to make the objection and then provides that the coroner or medical examiner cannot do the autopsy or testing unless a compelling state interest exists. The bill defines compelling state interest as any of the following:

- the autopsy is essential to the investigation of a crime
- the autopsy is necessary to discover the cause of death to meet immediate threats to public health or after an unexpected death to protect the public's health
- the death is the unexpected or unexplained death of a child
- the autopsy is necessary to obtain proper toxicological or specimen reports for evidence of a crime that could deteriorate over time
- the death is associated with police action
- the death is an unnatural, unattended, or unexpected death in a corrections facility
- the death is due to workplace injury
- the death is caused by electrocution or drowning
- the decedent is unidentified and the autopsy will help identify the body
- the body is skeletonized but not believed to be more than 50 years old
- the death appears to be caused by fire or explosion
- it is demonstrated in a court of law by the coroner or medical examiner that the state's need for the autopsy is greater than the interest in observing the decedent's religious beliefs

This section provides that the coroner or medical examiner can do an autopsy over the objection of a family member when a compelling state interest exists however the autopsy must be the least invasive procedure possible to achieve the state's goals but does not prohibit the coroner or medical examiner from obtaining permission to perform tests with the voluntary permission of the family members.

In cases where the coroner or medical examiner has tried to prove in court that there is a compelling interest to perform the autopsy where the state's interest is greater than the interest of observing the decedent's religious beliefs, and the coroner or medical examiner is not able to prove that, then the body must be immediately returned to the family.

Finally, this section removes liability from the coroner or medical examiner for the failure to perform an autopsy where one has not been done due to the objection of the family on religious grounds.

- 5** **Autopsies.** Provides that the current law that requires sheriffs to investigate certain violent or suspicious death and recommend an autopsy, or in instances where reported deaths must be made to the coroner or medical examiner are subject to the right to religious objection to the autopsy provided in section 4.

**Section**

**6**      **Other deaths; autopsies; exhumation consent.** Provides that in cases where the coroner or medical examiner may do an autopsy or exhume a human body related to a potentially violent or mysterious death or deaths in correction institutes that the provisions related to the religious exemptions in section 4 apply. This section also clarifies that for an exhumation of a body the coroner or medical examiner must get either the consent of a surviving spouse, or relative if there is no surviving spouse, or must get a court order to do an autopsy and exhumation.