

SENATE BILL REPORT

SSB 6068

As Passed Senate, February 9, 2012

Title: An act relating to religious objection to autopsy.

Brief Description: Providing for religious objection to autopsy.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline, Zarelli and Frockt).

Brief History:

Committee Activity: Judiciary: 1/17/12, 1/26/12 [DPS].

Passed Senate: 2/09/12, 46-2.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6068 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Carrell, Kohl-Welles, Padden and Regala.

Staff: Aldo Melchiori (786-7439)

Background: Different traditions, beliefs, and practices surrounding death are common to many cultures and religions and have sometimes resulted in a conflict with laws requiring autopsies in certain circumstances. Several states have a statutory process for resolving these potential conflicts.

In Washington, the primary role of the coroner or medical examiner is to investigate the deaths of individuals over which the coroner or medical examiner has jurisdiction. The coroner or medical examiner has jurisdiction of the following types of deaths: homicide, accident, suicide, deaths from unknown or obscure causes, deaths while in jail or prison, deaths under suspicious or unusual circumstances, and deaths constituting a threat to the public health. The purpose of the investigation is to determine the cause of death.

Summary of Substitute Bill: Whenever a medical examiner or coroner believes that an autopsy is appropriate, a reasonable effort must be made to meet with the decedent's family member or friend, in accordance with frequently established practice, to attempt to reach agreement on whether an autopsy will be conducted, the degree of intrusiveness, and whether

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and to what degree the autopsy will be governed by the decedent's religious beliefs. In the absence of a compelling public necessity, no dissection or autopsy may be performed over the objection of a surviving relative or friend of the deceased that the procedure is contrary to the religious belief of the decedent or if there is otherwise reason to believe that a dissection or autopsy is contrary to the decedent's religious beliefs. If a surviving friend or relative asserts that the autopsy is contrary to the religious beliefs of the deceased, the friend or relative must be given notice and at least 48 hours to institute a legal proceeding to determine the propriety of the autopsy. The coroner or medical examiner must wait at least 48 hours before performing the autopsy if the coroner or medical examiner otherwise has reason to believe that the autopsy is contrary to the decedent's religious beliefs.

The coroner or medical examiner may institute a special proceeding, without a fee, for an order authorizing the autopsy over the objections. Evidence that the objecting party is a suspect in the homicide may be received by the court *ex parte*. The special proceeding is decided summarily upon the petition and oral or written proof offered by the parties. The court must consider evidence as to whether the decedent held religious beliefs that preclude or limit the scope of the autopsy. The court must allow the autopsy if it finds that the coroner or medical examiner has established a demonstrable need. If the autopsy is denied, and no stay is granted by the court, the body must immediately be released for burial to the surviving friend or relative. The coroner is not civilly liable for damages for any act or omission in compliance with these procedures.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The purpose of the bill is to codify the current considerations that are used by coroners and medical examiners. Our autopsy laws need to be respectful of people's strongly held religious beliefs. This is a matter of freedom of religion. There are no agreements about how exactly to proceed with the bill, but everyone agrees that religious exceptions should be allowed.

CON: Religious objections are not uncommon, and the present system accommodates those involved. If there is disagreement, a judge ultimately makes the decision and this is not changed by the bill. There may be suspicious circumstances that are not fully known until an autopsy is conducted. The issues in the specific case cited are an anomaly. Coroners are not insensitive or ignorant of religious needs and issues. The solution is education, consultation, and cooperation- not new laws. This bill would make the process more adversarial rather than more compassionate.

Persons Testifying: PRO: Senator Kline, prime sponsor; Rabbi Heber, Chabal of Pierce County; Zack Carstensen, Jewish Federation.

CON: James McMahan, WA Assn. of County Officials; Richard Haccuff, King County Medical Examiners Office; Gary Goldfogel, Whatcom County Medical Examiner.