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HOUSE BILL 2429

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State of Washington                      62nd Legislature                      2012 Regular Session

By Representatives Carlyle, Goodman, Maxwell, Pollet, Billig,  
Appleton, Roberts, Hurst, Miloscia, and Jenkins

Read first time 01/13/12. Referred to Committee on Judiciary.

1            AN ACT Relating to religious objection to autopsy; and adding a new  
2 section to chapter 36.24 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 36.24 RCW  
5 to read as follows:

6            (1) In the absence of a compelling public necessity, no dissection  
7 or autopsy shall be performed over the objection of a surviving  
8 relative or friend of the deceased that the procedure is contrary to  
9 the religious belief of the decedent, or if there is otherwise reason  
10 to believe that a dissection or autopsy is contrary to the decedent's  
11 religious beliefs.

12            (2) For the purposes of this section:

13            (a) "Compelling public necessity" means:

14            (i) That the autopsy is essential to the conduct of the criminal  
15 investigation of a homicide of which the decedent is the victim;

16            (ii) That discovery of the cause of death is necessary to meet an  
17 immediate and substantial threat to the public health and that an  
18 autopsy is essential to ascertain the cause of death; or

1 (iii) That the need for an autopsy is established in accordance  
2 with subsection (5) of this section.

3 (b) "Friend" means any person who, prior to the decedent's death,  
4 maintained such regular contact with the decedent as to be familiar  
5 with his or her activities, health, and religious beliefs and who  
6 presents an affidavit stating the facts and circumstances upon which  
7 the claim that he or she is a friend is based, the religious  
8 affiliation of the decedent, if any, that the decedent had religious  
9 objections to an autopsy, the basis for such belief, and that he or she  
10 will assume responsibility for the lawful disposition of the body of  
11 the deceased.

12 (c) "Relative" means the person most closely related to the  
13 decedent by consanguinity or affinity. In the event such person is  
14 unavailable, the objection may be raised on his or her behalf by the  
15 next most closely related person. The official who has authority to  
16 order an autopsy of the decedent's body may require a relative to  
17 present an affidavit stating his or her relationship to the decedent,  
18 the religious affiliation of the decedent, if any, that the decedent  
19 had religious objections to an autopsy, the basis for such belief, and  
20 that he or she will assume responsibility for the lawful disposition of  
21 the body of the deceased.

22 (3) All autopsies performed pursuant to this section shall be the  
23 least intrusive procedure consistent with the compelling state  
24 interest.

25 (4) No autopsy shall be performed over the objection of a surviving  
26 friend or relative that the autopsy is contrary to the religious  
27 beliefs of the deceased, or where there is otherwise reason to believe  
28 that an autopsy is contrary to the decedent's religious beliefs, until  
29 notice thereof is given to the friend or next of kin, or until forty-  
30 eight hours have elapsed, whichever is greater, to permit an objecting  
31 party to institute legal proceedings to determine the propriety of the  
32 autopsy. However, a court upon an ex parte motion may dispense with  
33 the waiting period if it determines that the delay may prejudice the  
34 accuracy of the autopsy or if the objecting party is a suspect in the  
35 homicide.

36 (5) Whenever any coroner or medical examiner deems it necessary to  
37 perform an autopsy over the objection of a surviving friend or relative  
38 that the autopsy is contrary to the religious beliefs of the deceased,

1 or where there is otherwise reason to believe that an autopsy is  
2 contrary to the decedent's religious beliefs, in circumstances not  
3 provided for in subsection (2)(a)(i) and (ii) of this section, he or  
4 she may institute a special proceeding, without a fee, in the superior  
5 court of the county in which the autopsy is to be performed, for an  
6 order authorizing the autopsy. The special proceeding shall be  
7 determined summarily upon the petition and such oral or written proof  
8 as may be offered by the parties. The court shall grant the relief  
9 sought in the petition if it finds that the coroner or medical examiner  
10 has established a demonstrable need for the autopsy. If the petition  
11 is denied, and no stay is granted by the court, the body shall  
12 immediately be released for burial to the surviving friend or relative.

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