CHAPTER 88

HOUSE BILL 2225

AN ACT

AMENDING SECTION 11-597, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 3, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-597.02; RELATING TO THE COUNTY MEDICAL EXAMINER.

(TEXT OF BILL BEGINS ON NEXT PAGE)
H.B. 2225

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 11-597, Arizona Revised Statutes, is amended to read:

11-597. Autopsies; reports; exemption from liability

A. The county medical examiner or alternate medical examiner shall conduct a death investigation to determine whether or not the public interest requires an external examination, autopsy or other special investigation.

B. An external examination or autopsy is not required for deaths due to natural diseases that occur during surgical or anesthetic procedures unless the medical examiner or alternate medical examiner determines that an external examination or autopsy is necessary.

C. In the determination of the need for an autopsy, the county medical examiner or alternate medical examiner may consider the request for an autopsy made by private persons or public officials. If the county attorney or a superior court judge of the county where the death occurred requests an autopsy, the county medical examiner shall perform the autopsy, or, in the case of an alternate medical examiner, an autopsy shall be performed by a forensic pathologist.

D. A forensic pathologist shall perform an autopsy in cases of sudden and unexplained infant death in accordance with protocols adopted by the director of the department of health services. If the medical examiner or forensic pathologist determines that the infant died of sudden infant death syndrome, the medical examiner or forensic pathologist shall notify the department of health services. The medical examiner or forensic pathologist may take tissue samples, specimens and other biological materials for diagnostic purposes.

E. If an autopsy is performed, a full record or report of the facts developed by the autopsy in the findings of the person performing the autopsy shall be properly made and filed in the office of the county medical examiner or the board of supervisors. If the person performing the autopsy determines that the report should be forwarded to the county where the death occurred or the county in which any injury contributing to or causing the death was sustained, the report shall be forwarded to the county attorney.

F. A county attorney may request and upon request shall receive from the county medical examiner or alternate medical examiner a copy of the report on any autopsy performed.

G. The county medical examiner or alternate medical examiner may perform other tests deemed necessary to determine identity and the cause and manner of death and may retain tissues, specimens and other biological materials for subsequent examination.

H. When a death investigation, including an external examination, autopsy or other tests are performed by the county medical examiner, alternate medical examiner or a forensic pathologist, no cause of action shall lie against the physician or any other person for requesting the autopsy, for performing, participating in or determining the cause and manner of death.
MAN  OF DEATH OR OTHERWISE REPORTING THE RESULTS FROM THE EXTERNAL
EXAMINATION, DEATH INVESTIGATION, autopsy OR OTHER TESTS or for retaining
specimens or tissues OR OTHER BIOLOGICAL MATERIALS.

Sec. 2. Title 11, chapter 3, article 12, Arizona Revised Statutes, is
amended by adding section 11-597.02, to read:

11-597.02. Autopsy photographs, digital images, x-rays and
video recordings; in camera review; exceptions;
procedures; immunity

A. NOTwithstanding Title 39, Chapter 1, photographs, digital images,
x-rays and video recordings of human remains that are created by a medical
examiner, alternate medical examiner or their employees or agents during a
death investigation that is conducted pursuant to this chapter may not be
disclosed by a medical examiner, alternate medical examiner or their
employees or agents unless a judge of the superior court grants disclosure of
all or part of the materials after reviewing the materials in camera. The
judge of the superior court shall balance the interests under the public
records laws of this state to determine whether to order disclosure of all or
part of the materials. A person that seeks disclosure of the materials
described in this section may file a petition in the superior court of the
county in which the death investigation occurred for an in camera review of
the materials.

B. NOTwithstanding the provisions of subsection A of this section, the
following persons may examine and obtain the materials described in
subsection A of this section:

1. The county attorney, attorney general or other law enforcement
agency having jurisdiction, as necessary for the performance of their duties.
2. The surviving spouse, child, parent, legal guardian, grandparent,
grandchild or sibling of the decedent or their legal representative or
designated agent.
3. A personal representative of the decedent’s estate or a person
designated by the decedent before death.
4. Federal, state or local governmental authorities, including public
health officers, as necessary for the performance of their duties.
5. The attending physician or nurse practitioner.
6. A medical or scientific body or university or other educational
institute for educational or research purposes, provided that the materials
used do not reveal the decedent’s identity.
7. An attorney for a defendant or petitioner in any criminal or
post-conviction proceeding for purposes of assisting representation in that
proceeding.

C. NOTHING in this section shall affect the conduct of trials or the
discovery process as provided by law or court rule.

D. The medical examiner or alternate medical examiner may prescribe
procedures for the issuance of materials pursuant to subsection B of this
section, including reproduction fees.
E. A CAUSE OF ACTION MAY NOT ARISE AGAINST THE COUNTY MEDICAL EXAMINER, ALTERNATE MEDICAL EXAMINER OR THEIR EMPLOYEES OR AGENTS, OR THE COUNTY FOR LAWFULLY DISCLOSING A DEATH INVESTIGATION PHOTOGRAPH, DIGITAL IMAGE, X-RAY OR VIDEO RECORDING PURSUANT TO THIS SECTION.

APPROVED BY THE GOVERNOR APRIL 17, 2014.