

SUBJECT: Release of information in an autopsy report

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Hinojosa, Dunnam, Garcia, Green, Keel, Smith, Talton, Wise
0 nays
1 absent — Nixon

SENATE VOTE: On final passage, April 16 — voice vote

WITNESSES: No public hearing

DIGEST: SB 785 would define “autopsy report” in Health and Safety Code, chapter 671, subchapter B, as the report of the postmortem examination of the body of a person, including any x-rays and photographs taken and any toxicology report or other report involving a post-dissection exam of internal organs and structures of the body. An autopsy report would not include investigative reports and other documents reviewed by a physician to help determine the cause of death.

The bill also would specify that autopsy records are public information under the Public Information Act (Government Code, chapter 552). Photographs and x-rays would not be subject to public disclosure except under a subpoena or authority of other law, or unless they represented the body of a person who had died while in the custody of law enforcement.

SB 785 would allow the release of an autopsy report to an authorized person for the determination of cause of death for a workers’ compensation or insurance claim. The person who received this information could disclose it only as needed for the authorized purpose for which it was obtained.

The bill would require the commissioners court in a county with custody of an autopsy report to establish a fee for a copy of the report. For providing a copy of written portions of the report, the court would have to set a fee based on reasonable costs, not to exceed \$25. For x-rays and photographs, the court would have to charge the actual cost of reproduction, including reasonable

overhead costs. The bill would eliminate the current fee of \$5 for an autopsy report.

This bill would take effect September 1, 1999.

**SUPPORTERS
SAY:**

Autopsy photos or x-rays should not be subject to public disclosure or available to the public. With the increasing popularity of the Internet, misuse or widespread distribution of autopsy photos is a growing possibility. Relatives of deceased individuals should not have to worry about their loved ones' autopsy photos falling into the wrong hands.

Autopsy photos and x-rays of people who die in law enforcement custody should remain subject to the Public Information Act. The possibility of public disclosure of inmates' autopsy x-rays and photos would serve to verify or disprove possible abuses.

Current law allows an autopsy report to be furnished to any "duly authorized person." In a June 1998 letter, the Attorney General's Office determined that "duly authorized person" means a person authorized to investigate cause of death in a case involving a workers' compensation or insurance claim. SB 785 would reflect revise the law to reflect this interpretation.

SB 785 also would provide needed clarification of the fee schedule for copies of autopsy reports and of the definition of "autopsy report."

**OPPONENTS
SAY:**

Photos and x-rays are an important part of an autopsy record, serving the purpose of disproving or verifying information contained in a written autopsy report. They should remain public information, because without these visual elements, an autopsy report tells only half of the story.

Autopsy photos and x-rays play an important role in determining the cause of death in some cases. Small towns and rural areas often lack the resources to initiate an extensive investigation into an apparent suicide. Photos sometimes can tell whether a suspected suicide actually resulted from foul play. SB 785 could jeopardize access to photos for this purpose.

This bill would endanger crime reporting in public media, thus diminishing people's awareness of their personal safety. Media outlets always keep on file copies of photos and x-rays when they publish a story about a deceased

person. The visual elements of an autopsy report serve to substantiate published material if a news report is called into question. Newspapers and television stations almost never run autopsy pictures, which are too gruesome for the general public. Therefore, legislators should not worry about the photos being obtained by the media.

OTHER
OPPONENTS
SAY:

The guidelines regarding disclosure of autopsy photos and x-rays should not be referenced to the Public Information Act. The Code of Criminal Procedure prescribes very specific procedures for disclosure of information. Putting the guidelines for release of information on autopsy reports under the purview of the Public Information Act could allow for limits on disclosure that would extend further than photos.