

# SENATE BILL No. 1289

June 8, 2004, Introduced by Senator GEORGE and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 2855a (MCL 333.2855a), as added by 2003 PA  
322.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2855a. (1) A person shall not publicly display an  
2 autopsy photograph of a decedent that identifies the decedent by  
3 name, face, or other identifying physical feature unless 1 of the  
4 following conditions is met:

5       (a) One of the following individuals specifically provides  
6 written authorization for the public display of the autopsy  
7 photograph:

8       (i) A person nominated by will or other writing signed by the  
9 decedent.

10       (ii) If an individual described in subparagraph (i) cannot be

1 identified or located following a diligent and good faith effort,  
2 the decedent's spouse.

3 (iii) If an individual described in subparagraph (i) or (ii)  
4 cannot be identified or located following a diligent and good  
5 faith effort, an adult child of the decedent.

6 (iv) If an individual described in subparagraph (i), (ii), or  
7 (iii) cannot be identified or located following a diligent and  
8 good faith effort, a parent of the decedent.

9 (v) If an individual described in subparagraph (i), (ii),  
10 (iii), or (iv) cannot be identified or located following a  
11 diligent and good faith effort, the next of kin of the decedent.

12 (vi) If an individual described in subparagraph (i), (ii),  
13 (iii), (iv), or (v) cannot be identified or located following a  
14 diligent and good faith effort, an individual charged by law with  
15 the responsibility for burial or cremation of the decedent's  
16 body.

17 (b) The public display of the autopsy photograph is 1 of the  
18 following:

19 (i) Upon written authorization by the prosecuting attorney  
20 having jurisdiction for a purpose directly related to the  
21 investigation or prosecution of a criminal case.

22 (ii) Authorized by a court of competent jurisdiction for a  
23 purpose directly related to the proceedings in a civil case.

24 (iii) Required for a health department to carry out its  
25 lawful duties.

26 (iv) Necessary for legitimate research or teaching of only  
27 medical, public health, or public safety personnel or students

1 enrolled at a postsecondary educational institution.

2           (v) Pursuant to a court order issued upon the request of a  
3 law enforcement agency as part of a criminal investigation.

4           (2) A decedent's parent, surviving spouse, and children who  
5 are injured as a result of a violation of this section may bring  
6 an action in a court of competent jurisdiction to recover  
7 \$1,000.00 or actual damages, whichever is greater, plus costs and  
8 reasonable attorney fees.

9           (3) This section does not apply to an internet service  
10 provider or computer network service provider who in good faith,  
11 and without knowledge of the content of the photograph, provides  
12 the medium for public display of the photograph. As used in this  
13 subsection, "internet service provider" means a person who  
14 provides a service that enables users to access content,  
15 information, electronic mail, or other services offered over the  
16 internet.

17           (4) This section does not prohibit constitutionally protected  
18 speech or activity.

19           (5) As used in this section:

20           (a) "Autopsy photograph" means an image of a decedent  
21 obtained during an autopsy of that decedent in this state, and  
22 includes an image on videotape, motion picture or other film, or  
23 an image captured by digital means.

24           (b) "Decedent" means a deceased human being.

25           (c) "Public display" means to knowingly communicate, exhibit,  
26 or display in open view or to distribute to members of the public  
27 or in a public manner, whether or not for commercial purposes,

1 through any medium of communication including, but not limited  
2 to, the internet or a computer, computer network, computer  
3 program, or computer system, as those terms are defined in  
4 section 2 of 1979 PA 53, MCL 752.792.