

Act No. 322
Public Acts of 2003
Approved by the Governor
January 9, 2004
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STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2003

Introduced by Reps. Gleason, Vagnozzi, Condino, Clack, Sak, O'Neil, Stallworth, Anderson, Accavitti, Tobocman, Meisner, Bieda, Lipsey, Sheltrown, Gillard, Smith, Daniels, Law, Murphy, Hunter, Plakas, Spade, Woodward, Gieleghem, Jamnick, McConico, Minore, Waters, Stahl, Stakoe, Casperson and Hardman

ENROLLED HOUSE BILL No. 4249

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding section 2855a.

The People of the State of Michigan enact:

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

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

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

(ii) If an individual described in subparagraph (i) cannot be identified or located following a diligent and good faith effort, the decedent's spouse.

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

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

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

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

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

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

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

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

(iv) Necessary for legitimate research or teaching of only medical, public health, or public safety personnel or students enrolled at a postsecondary educational institution.

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

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

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

(5) As used in this section:

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

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

(c) "Public display" means to knowingly communicate, exhibit, or display in open view or to distribute to members of the public or in a public manner, whether or not for commercial purposes, through any medium of communication including, but not limited to, the internet or a computer, computer network, computer program, or computer system, as those terms are defined in section 2 of 1979 PA 53, MCL 752.792.

Enacting section 1. This amendatory act takes effect March 31, 2004.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor