



**House
Legislative
Analysis
Section**

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**CIRCUIT COURT SUBPOENAS FOR
COUNTY MEDICAL EXAMINERS**

**House Bill 4166 (Substitute H-1)
First Analysis (3-22-01)**

**Sponsor: Rep. Gerald Van Woerkom
Committee: Civil Law and the Judiciary**

THE APPARENT PROBLEM:

County medical examiners are required by law (Public Act 181 of 1953) to investigate the causes of death under certain circumstances, including when someone dies violently or unexpectedly or without medical attendance under certain circumstances or as the result of an abortion. Reportedly, county medical examiners have requested medical records of the deceased in the course of an investigation, but sometimes have had trouble in getting their requests fulfilled. In such cases, the county medical examiner's only recourse is to seek a subpoena from the county prosecuting attorney. Some people believe that this process is too time consuming, and at the request of the medical examiners legislation has been introduced to address this issue.

THE CONTENT OF THE BILL:

The bill would amend Public Act 181 of 1953 to allow county medical examiners (or deputy medical examiners) to request the circuit court to issue a subpoena to produce medical records, books, papers, documents, or other items related to the death while conducting such investigations. If such a subpoena were not obeyed, the county medical examiner or deputy county medical examiner could petition the circuit court for the county in which the death occurred to require the production of the medical records described in the subpoena, and the circuit court could issue an order requiring a person to produce the items. Failure to obey the court order could be punished as a contempt of court.

Medical records (including books, papers, documents, or other items) that a county medical examiner obtained in conducting an investigation into a death, whether the records were obtained in response to a subpoena or otherwise, would be exempted from disclosure under the Freedom of Information Act.

MCL 52.202

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would not result in increased costs for the state. It may have a fiscal impact on counties and circuit courts. (3-22-01)

ARGUMENTS:

For:

According to testimony before the committee, 95 percent of the time, medical records are turned over to the county medical examiner upon his or her request. However, sometimes the requested records are not turned over by doctors or hospitals, or sometimes "run sheets" requested from ambulances are not forthcoming. In addition, although families don't always know when an autopsy or investigation is done, reportedly when families are aware of a county medical examiner's investigation, about half of the families themselves refuse to turn medical records over upon request. In these cases, the only recourse that the county medical examiner has is to go to the county prosecutor and request that a subpoena for the requested medical records be issued, which is cumbersome and time consuming.

It is important, as well as legally required, for county medical examiners to determine the cause and manner of suspicious deaths, not only to ensure that any wrong-doing is discovered but also because the deceased's family has the right to know an accurate cause of death. By allowing county medical examiners to go directly to the circuit court to request subpoenas, instead of requiring them to go through their county prosecutors, the bill would speed up the investigative process and could even reduce the number of autopsies that county medical examiners needed to perform. This would save the counties money and would spare at least some of the families who object to autopsies from having their loved one undergo that procedure. Finally, because the bill would exempt the medical records obtained by county medical examiners in the course of an investigation, whether obtained by subpoena or not,

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from disclosure under the Freedom of Information Act, the bill also would protect the medical privacy of the surviving family members, some of whom might otherwise be put at risk because of the disclosure of family medical conditions.

POSITIONS:

The Michigan Association of County Medical Examiners strongly supports the bill. (3-21-01)

The Department of Community Health has not yet taken a position on the bill. (3-21-01)

Analyst: S. Ekstrom

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.