

Senate Fiscal Agency  
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**SFA**



**BILL ANALYSIS**

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House Bill 4166 (Substitute H-1 as reported without amendment)  
Sponsor: Representative Gerald Van Woerkom  
House Committee: Civil Law and the Judiciary  
Senate Committee: Judiciary

Date Completed: 6-4-01

### **RATIONALE**

Public Act 181 of 1953 requires county medical examiners to investigate the cause and manner of death under certain circumstances, including when someone dies violently, unexpectedly, or without medical attention. Reportedly, county medical examiners who request medical records of the deceased in the course of an investigation sometimes experience difficulty in having their requests fulfilled. In these cases, a county medical examiner's only recourse is to ask the county prosecuting attorney to seek a subpoena from a court. Some people believe that this process is too cumbersome and time consuming. Medical examiners have suggested that they be allowed to request a court-issued subpoena directly, rather than going through the prosecutor's office.

### **CONTENT**

The bill would amend Public Act 181 of 1953 to allow a medical examiner or deputy medical examiner to request that the circuit court issue a subpoena to produce medical records, books, papers, documents, or other items related to the death being investigated. The court could punish as contempt of court failure to obey a subpoena issued under the bill.

The bill specifies that medical records, books, papers, documents, or other items obtained by a medical examiner or deputy medical examiner in conducting an investigation under the Act, whether in response to a subpoena or otherwise, would be exempt from disclosure under the Freedom of Information Act.

The Act requires a county medical examiner or deputy county medical examiner to investigate the cause and manner of death in the case of

an individual who has died by violence; whose death was unexpected; who died without medical attendance during the 48 hours preceding death, unless the attending physician, if any, is able to determine accurately the cause of death; or who died as the result of an abortion, whether self-induced or otherwise. In addition, if a prisoner in a county or city jail dies while imprisoned, the county medical examiner must examine the deceased prisoner's body. The bill would require either the medical examiner or a deputy medical examiner to examine the body of a deceased prisoner.

MCL 52.202

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

Reportedly, medical records are turned over to the county medical examiner upon his or her request in the vast majority of cases involving health care providers and facilities. Sometimes, however, the requested records are not released by doctors, hospitals, or emergency services providers. In addition, although families do not always know that an autopsy or investigation will be performed, when families are aware of a county medical examiner's investigation, about half of them reportedly refuse to turn over requested medical records. In these cases, the county medical examiner's only option is to ask the county prosecutor to request that a subpoena be issued for the medical records. This

process creates extra work for the county and can delay the investigation.

County medical examiners are legally required to determine the cause and manner of suspicious deaths, in order to ensure that any wrongdoing is uncovered. It also is important to inform the deceased's family of the cause of death. By allowing a county medical examiner to go directly to the circuit court to request a subpoena, instead of going through the county prosecutor to secure a subpoena, the bill would speed up the medical examiner's investigative process. In addition, since the bill would exempt from disclosure under the Freedom of Information Act the medical records obtained by a county medical examiner in the course of an investigation, whether obtained by subpoena or not, the bill also would protect the privacy of surviving family members.

Legislative Analyst: P. Affholter

#### **FISCAL IMPACT**

The bill would have an indeterminate impact on local county medical examiners depending on the number of subpoenas requested. The bill could result in savings due to quicker investigations.

The bill also would result in minimal administrative savings for local prosecuting attorney offices.

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.