

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 631

Short Title: Autopsy Photos Not Public Record. (Public)

Sponsors: Representatives Setzer; Barnhart, Capps, Eddins, Gibson, Johnson, Kiser, McCombs, Mitchell, Starnes, Teague, and Walend.

Referred to: Judiciary I.

March 15, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT PHOTOGRAPHS AND VIDEO RECORDINGS
3 MADE PURSUANT TO AN AUTOPSY ARE NOT A PUBLIC RECORD.
4 The General Assembly of North Carolina enacts:
5 SECTION 1. Chapter 132 of the General Statutes is amended by adding the
6 following new section to read:
7 "**§ 132-1.5A. Photographs and video recordings made pursuant to autopsy.**
8 (a) Findings. – The General Assembly finds the following:
9 (1) Photographs or video recordings of an autopsy show the deceased in a
10 graphic and often disturbing fashion. The photographs or video
11 recordings may depict the deceased nude, bruised, bloodied, broken,
12 with bullet or other wounds, cut open, dismembered, or decapitated.
13 As such, photographs or video recordings of an autopsy are highly
14 sensitive depictions of the deceased which, if copied and publicized,
15 could result in trauma, sorrow, humiliation, or emotional injury to the
16 immediate family of the deceased, as well as injury to the memory of
17 the deceased.
18 (2) The existence of the World Wide Web and the proliferation of
19 personal computers throughout the world encourages and promotes the
20 wide dissemination of photographs and video recordings 24 hours a
21 day and that widespread dissemination of autopsy photographs and
22 video recordings would subject the immediate family of the deceased
23 to continuous injury.
24 (3) There are other types of information available, such as the text of the
25 autopsy report, which are less intrusive and injurious to the immediate
26 family members of the deceased but which provide for public
27 oversight.

1 (4) Given the likelihood of injury to immediate family members by the
2 dissemination of autopsy photographs and video recordings and the
3 availability of less intrusive means of providing public oversight, it is a
4 public necessity to provide by law that photographs and video
5 recordings of an autopsy are not a public record under G.S. 132-1.

6 (b) Except as otherwise provided in this subsection, a photograph or video
7 recording of an autopsy is not a public record as defined by G.S. 132-1. The custodian
8 of a photograph or video recording of an autopsy shall grant access to the photograph or
9 video recording to the following:

10 (1) Chief Medical Examiner.

11 (2) Authorizing medical examiner.

12 (3) District attorney.

13 (4) Superior Court Judge.

14 (5) An individual entitled to bring a wrongful death action on behalf of the
15 deceased under G.S. 28A-18.2.

16 (c) Any person who provides one or more photographs or video recordings in
17 violation of this section is guilty of a Class I felony."

18 **SECTION 2.** G.S. 130A-389 reads as rewritten:

19 "**§ 130A-389. Autopsies.**

20 (a) If, in the opinion of the medical examiner investigating the case or of the
21 Chief Medical Examiner, it is advisable and in the public interest that an autopsy or
22 other study be made; or, if an autopsy or other study is requested by the district attorney
23 of the county or by any superior court judge, an autopsy or other study shall be made by
24 the Chief Medical Examiner or by a competent pathologist designated by the Chief
25 Medical Examiner. A complete autopsy report of findings and interpretations, prepared
26 on forms designated for the purpose, shall be submitted promptly to the Chief Medical
27 Examiner. Copies of the report shall be furnished the authorizing medical examiner,
28 district attorney or superior court judge. Subject to the limitations of G.S. 132-1.5A, A
29 copy of the report shall be furnished to other persons upon request. A fee for the
30 autopsy or other study shall be paid by the State. However, if the deceased is a resident
31 of the county in which the death or fatal injury occurred, that county shall pay the fee.
32 The fee shall be one thousand dollars (\$1,000).

33 (b) In deaths where the Chief Medical Examiner and the medical examiner
34 investigating the case do not deem it advisable and in the public interest that an autopsy
35 be performed, but the next-of-kin of the deceased requests that an autopsy be
36 performed, the Chief Medical Examiner or a designated pathologist may perform the
37 autopsy and the cost shall be paid by the next-of-kin.

38 (c) When the next-of-kin of a decedent whose death does not fall under G.S.
39 130A-383 or 130A-384 requests that an autopsy be performed, the Chief Medical
40 Examiner or a designated pathologist may perform that autopsy and the cost shall be
41 paid by the next-of-kin.

42 (d) The report of autopsies performed pursuant to subsections (b) and (c) shall be
43 a part of the decedents' medical records and therefore not public records open to
44 inspection."

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SECTION 3. This act is effective when it becomes law.