~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 5, 2022

**H. 4948**

Introduced by Rep. Rutherford

S. Printed 4/5/22--H.

Read the first time February 8, 2022.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 4948) to amend Section 17‑5‑535, Code of Laws of South Carolina, 1976, relating to persons authorized to view photographs and videos of an autopsy, so as, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting SECTION 1 and inserting:

/ SECTION 1. Section 17‑5‑535 of the 1976 Code is amended to read:

“Section 17‑5‑535. (A) Photographs, videos, or other visual images and audio recordings of or related to the performance of an autopsy shall only be viewed by or disseminated to:

(1) the coroner or the medical examiner, or both, and their staff;

(2) members of law enforcement agencies, for official use only;

(3) ~~parents of the deceased, surviving spouse, children, guardian, personal representative next of kin, and any other person given permission or authorization to view or possess the visual images by the personal representative of the deceased’s estate;~~

~~(4)~~ those involved in a judicial or administrative proceeding related to the death of the subject of the photograph, video, other visual image or audio recordings including, but not limited to:

(a) parties to a civil suit arising from, related to, or relevant to the death or autopsy of the subject of the photograph, video, other visual image or audio recordings, and the attorneys for the parties and the staff of the attorneys;

(b) a person charged with a crime arising from, related to or relevant to the death or autopsy of the subject of the photograph, video, other visual image or audio recordings, and the person’s attorney and the staff of the attorney;

(c) staff of the prosecutor’s office considering or prosecuting criminal charges arising from, related to or relevant to the death or autopsy of the subject of the photograph, video, other visual image or audio recordings;

(d) lay and expert witnesses conferred with, consulted or retained by a party or an attorney considering or involved in a legal or administrative proceeding arising from, related to or relevant to the death or autopsy of the subject of the photograph, video, other visual image or audio recordings;

(e) judges and administrative hearing officers, as well as their staff, involved in a judicial or administrative proceeding arising from, related to or relevant to the death or autopsy of the subject of the photograph, video, other visual image or audio recordings; and

(f) members of any jury, including grand juries, petit juries and coroner’s juries, empanelled to hear or decide any issue arising from, related to or relevant to the death or autopsy of the subject of the photograph, video, other visual image or audio recordings;

~~(5)~~(4) physicians and other persons consulted by or supervising the physicians or persons who were involved in the performance of the autopsy of the subject of the photograph, video, other visual images, or audio recordings; and

~~(6)~~(5) a person who receives such photographs, videos, or other visual images pursuant to a validly issued court order, after notice and opportunity to object are provided to the personal representative of the deceased’s estate.

These photographs and videos must be released and disseminated only as authorized by this section.

(B) Photographs, videos, or other visual images and audio recordings of or related to the performance of an autopsy are allowed to be viewed by and may be disseminated, at the discretion of the coroner, to parents of the deceased, surviving spouse, children, guardian, personal representative, next of kin, and any other person given permission or authorization to view or possess the visual images by the personal representative of the deceased’s estate.

(C) Notwithstanding the provisions contained in subsection (A), a photograph, video, other visual image of an autopsy, or an audio recording of an autopsy, or a combination of each of these items, after all information immediately identifying the decedent has been redacted and after making facial recognition anonymous to the extent reasonably possible if lawfully obtained or possessed may be used for:

(1) legitimate medical scientific teaching or training purposes;

(2) legitimate teaching or training of law enforcement personnel;

(3) teaching or training of attorneys or other individuals with a professional need to use or understand forensic science or public health;

(4) conferring with medical or scientific experts in the field of forensic science or public health; or

(5) publication in a scientific or medical or legal journal or textbook.

~~(C)~~(D) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five thousand dollars nor more than fifty thousand dollars. Each violation under this section must be considered a separate offense.

(E) Nothing contained in this section may be construed to limit any victims’ rights pursuant to the Constitution of this State or Article 15, Chapter 3, Title 16.” /

Renumber sections to conform.

Amend title to conform.

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Local Expenditure**

This bill allows coroners the discretion to release photographs, videos, or other visual images and audio recordings related to an autopsy to parents of the deceased, surviving children, guardians, personal representatives, next of kin, and any other person given permission or authorization to view or possess the visual images by the personal representative of the deceased’s estate. Currently, these photographs and videos can be viewed and disseminated to the individuals listed above.

The Revenue and Fiscal Affairs Office surveyed all forty-six counties, as well as forty-four members of the South Carolina Coroner’s Association to determine if this legislation would have an impact on county expenditures. We received responses from seven counties. Several of the responding counties report that expenditures resulting from this legislation could be managed within their current appropriations. One responding county indicates a potential cost savings from the conservation of resources and operating expenses but could not quantify the savings. Operational expenses include processing fees, printing costs, and administrative costs. However, one county reports that there could be costs associated with legal expenses depending on the number of requests denied by coroners.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 17‑5‑535, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS AUTHORIZED TO VIEW PHOTOGRAPHS AND VIDEOS OF AN AUTOPSY, SO AS TO RESTRUCTURE THE CIRCUMSTANCES UNDER WHICH PHOTOGRAPHS AND VIDEOS OF AN AUTOPSY MAY BE DISSEMINATED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 17‑5‑535 of the 1976 Code is amended to read:

“Section 17‑5‑535. (A) Photographs, videos, or other visual images and audio recordings of or related to the performance of an autopsy shall only be viewed by or disseminated to:

(1) the coroner or the medical examiner, or both, and their staff;

(2) members of law enforcement agencies, for official use only;

(3) ~~parents of the deceased, surviving spouse, children, guardian, personal representative next of kin, and any other person given permission or authorization to view or possess the visual images by the personal representative of the deceased’s estate;~~

~~(4)~~ those involved in a judicial or administrative proceeding related to the death of the subject of the photograph, video, other visual image or audio recordings including, but not limited to:

(a) parties to a civil suit arising from, related to, or relevant to the death or autopsy of the subject of the photograph, video, other visual image or audio recordings, and the attorneys for the parties and the staff of the attorneys;

(b) a person charged with a crime arising from, related to or relevant to the death or autopsy of the subject of the photograph, video, other visual image or audio recordings, and the person’s attorney and the staff of the attorney;

(c) staff of the prosecutor’s office considering or prosecuting criminal charges arising from, related to or relevant to the death or autopsy of the subject of the photograph, video, other visual image or audio recordings;

(d) lay and expert witnesses conferred with, consulted or retained by a party or an attorney considering or involved in a legal or administrative proceeding arising from, related to or relevant to the death or autopsy of the subject of the photograph, video, other visual image or audio recordings;

(e) judges and administrative hearing officers, as well as their staff, involved in a judicial or administrative proceeding arising from, related to or relevant to the death or autopsy of the subject of the photograph, video, other visual image or audio recordings; and

(f) members of any jury, including grand juries, petit juries and coroner’s juries, empanelled to hear or decide any issue arising from, related to or relevant to the death or autopsy of the subject of the photograph, video, other visual image or audio recordings;

~~(5)~~(4) physicians and other persons consulted by or supervising the physicians or persons who were involved in the performance of the autopsy of the subject of the photograph, video, other visual images, or audio recordings; and

~~(6)~~(5) a person who receives such photographs, videos, or other visual images pursuant to a validly issued court order, after notice and opportunity to object are provided to the personal representative of the deceased’s estate.

These photographs and videos must be released and disseminated only as authorized by this section.

(B) Photographs, videos, or other visual images and audio recordings of or related to the performance of an autopsy are allowed to be viewed by and may be disseminated, at the discretion of the coroner, to parents of the deceased, surviving spouse, children, guardian, personal representative, next of kin, and any other person given permission or authorization to view or possess the visual images by the personal representative of the deceased’s estate.

(C) Notwithstanding the provisions contained in subsection (A), a photograph, video, other visual image of an autopsy, or an audio recording of an autopsy, or a combination of each of these items, after all information immediately identifying the decedent has been redacted and after making facial recognition anonymous to the extent reasonably possible if lawfully obtained or possessed may be used for:

(1) legitimate medical scientific teaching or training purposes;

(2) legitimate teaching or training of law enforcement personnel;

(3) teaching or training of attorneys or other individuals with a professional need to use or understand forensic science or public health;

(4) conferring with medical or scientific experts in the field of forensic science or public health; or

(5) publication in a scientific or medical or legal journal or textbook.

(C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five thousand dollars nor more than fifty thousand dollars. Each violation under this section must be considered a separate offense.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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