



Ohio Revised Code

Section 313.131 Autopsy contrary to deceased person's religious beliefs.

Effective: July 25, 1990

Legislation: Senate Bill 131 - 118th General Assembly

(A) As used in this section:

(1) "Friend" means any person who maintained regular contact with the deceased person, and who was familiar with the deceased person's activities, health, and religious beliefs at the time of the deceased person's death, any person who assumes custody of the body for burial, and any person authorized by written instrument, executed by the deceased person to make burial arrangements.

(2) "Relative" means any of the following persons: the deceased person's surviving spouse, children, parents, or siblings.

(B) The coroner, deputy coroner, or pathologist shall perform an autopsy if, in the opinion of the coroner, or, in his absence, in the opinion of the deputy coroner, an autopsy is necessary, except for certain circumstances provided for in this section where a relative or friend of the deceased person informs the coroner that an autopsy is contrary to the deceased person's religious beliefs, or the coroner otherwise has reason to believe that an autopsy is contrary to the deceased person's religious beliefs. The coroner has such reason to believe an autopsy is contrary to the deceased person's religious beliefs if a document signed by the deceased and stating an objection to an autopsy is found on the deceased's person or in his effects. For the purposes of this division, a person is a relative or friend of the deceased person if the person presents an affidavit stating that he is a relative or friend as defined in division (A) of this section.

(C)(1) Except as provided in division (F) of this section, if a relative or friend of the deceased person informs the coroner that an autopsy is contrary to the deceased person's religious beliefs, or the coroner otherwise has reason to believe that an autopsy is contrary to the deceased person's religious beliefs, and the coroner concludes the autopsy is a compelling public necessity, no autopsy shall be performed for forty-eight hours after the coroner takes charge of the deceased person. An autopsy is a compelling public necessity if it is necessary to the conduct of an investigation by law enforcement officials of a homicide or suspected homicide, or any other



criminal investigation, or is necessary to establish the cause of the deceased person's death for the purpose of protecting against an immediate and substantial threat to the public health. During the forty-eight-hour period, the objecting relative or friend may file suit to enjoin the autopsy, and shall give notice of any such filing to the coroner. The coroner may seek an order waiving the forty-eight-hour waiting period. If the coroner seeks such an order, the court shall give notice of the coroner's motion, by telephone if necessary, to the objecting relative or friend, or, if none objected, to all of the deceased person's relatives whose addresses or telephone numbers can be obtained through the exercise of reasonable diligence. The court may grant the coroner's motion if the court determines that no friend or relative of the deceased person objects to the autopsy or if the court is satisfied that any objections of a friend or relative have been heard, and if it also determines that the delay may prejudice the accuracy of the autopsy, or if law enforcement officials are investigating the deceased person's death as a homicide and suspect the objecting party committed the homicide or aided or abetted in the homicide. If no friend or relative files suit within the forty-eight-hour period, the coroner may proceed with the autopsy.

(2) The court shall hear a petition to enjoin an autopsy within forty-eight hours after the filing of the petition. The Rules of Civil Procedure shall govern all aspects of the proceedings, except as otherwise provided in division (C)(2) of this section. The court is not bound by the rules of evidence in the conduct of the hearing. The court shall order the autopsy if the court finds that under the circumstances the coroner has demonstrated a need for the autopsy. If the court enjoins the autopsy, the coroner shall immediately proceed under section 313.14 of the Revised Code.

(D)(1) If a relative or friend of the decedent informs the coroner that an autopsy is contrary to the deceased person's religious beliefs, or the coroner otherwise has reason to believe that an autopsy is contrary to the deceased person's religious beliefs, and the coroner concludes the autopsy is necessary, but not a compelling public necessity, the coroner may file a petition in a court of common pleas seeking a declaratory judgment authorizing the autopsy. Upon the filing of the petition, the court shall schedule a hearing on the petition, and shall issue a summons to the objecting relative or friend, or, if none objected, to all of the deceased person's relatives whose addresses can be obtained through the exercise of reasonable diligence. The court shall hold the hearing no later than forty-eight hours after the filing of the petition. The court shall conduct the hearing in the manner provided in division (C)(2) of this section.



(2) Each person claiming to be a relative or friend of the deceased person shall immediately upon receipt of the summons file an affidavit with the court stating the facts upon which the claim is based. If the court finds that any person is falsely representing himself as a relative or friend of the deceased person, the court shall dismiss the person from the action. If after dismissal no objecting party remains, and the coroner does not have reason to believe that an autopsy is contrary to the deceased person's religious beliefs, the court shall dismiss the action and the coroner may proceed with the autopsy. The court shall order the autopsy after hearing the petition if the court finds that under the circumstances the coroner has demonstrated a need for the autopsy. The court shall waive the payment of all court costs in the action. If the petition is denied, the coroner shall immediately proceed under section 313.14 of the Revised Code.

Any autopsy performed pursuant to a court order granting an autopsy shall be performed using the least intrusive procedure.

(E) For purposes of divisions (B), (C)(1), and (D)(1) of this section, any time the friends or relatives of a deceased person disagree about whether an autopsy is contrary to the deceased person's religious beliefs, the coroner shall consider only the information provided to him by the person of highest priority, as determined by which is listed first among the following:

- (1) The deceased person's surviving spouse;
- (2) An adult son or daughter of the deceased person;
- (3) Either parent of the deceased person;
- (4) An adult brother or sister of the deceased person;
- (5) The guardian of the person of the deceased person at the time of death;
- (6) A person other than those listed in divisions (E)(1) to (5) of this section who is a friend as defined in division (A) of this section.

If two or more persons of equal priority disagree about whether an autopsy is contrary to the



deceased person's religious beliefs, and those persons are also of the highest priority among those who provide the coroner with information the coroner has reason to believe that an autopsy is contrary to the deceased person's religious beliefs.

(F)(1) Divisions (C)(1) and (2) of this section do not apply in any case involving aggravated murder, suspected aggravated murder, murder, suspected murder, manslaughter offenses, or suspected manslaughter offenses.

(2) This section does not prohibit the coroner, deputy coroner, or pathologist from administering a chemical test to the blood of a deceased person to determine the alcohol, drug, or alcohol and drug content of the blood, when required by division (B) of section 313.13 of the Revised Code, and does not limit the coroner, deputy coroner, or pathologist in the performance of his duties in administering a chemical test under that division.