

2017 SENATE HUMAN SERVICES

SB 2264

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2264
1/24/2017
Job Number 27271

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mare Gunn

Explanation or reason for introduction of bill/resolution:

A bill relating to providing notification of the report of death to the next of the deceased.

Minutes:

3 attachments

Chair J. Lee: Brought the hearing to order, all members were present

Sen. Brad Bekkedahl: provided written testimony in favor (0:45-2:40) **please see attachment #1.**

Callie Wachendorf: testified in favor (3:20-6:25) **please see attachment #2, page 7.**

Senator Anderson: This doesn't change the public record. All this bill does is says you get to find out before the rest of us.

Callie Wachendorf: We'll take a step in the right direction is the start of a positive process.

Randi Jangula (7:16-12:50) **please see attachment #2; Pg 5.**

Neutral testimony

Kirby Kruger (16:40-21:08) Chief of Medical Services section with the North Dakota Department of Health: provided written test **please see attachment #3** Requiring that report of death be confidential for 72 hours so it cannot be released while we're trying to notify family. I am not so sure under current statute that is protected in that 72hour period.

Senator Anderson: It's interesting that I have to prove I'm the father before I can get the information, but yet it's a public record right now. Seems a little strange doesn't it?

Kirby Kruger: The report of death, no, but full autopsy report yes.

Senator Anderson: But the death record had the information that the paper published even though they didn't get to whole autopsy report, is that what you're saying?

Kirby Kruger: The report of death has some basic information as to cause and manner of death on it.

Senator Clemens: Where did the reporter get the information from?

Kirby Kruger: This was public information as this was a high profile case and they knew autopsy report was forthcoming and they just happened to call when it was ready.

Senator Clemens: Due to the current law, it had to be released.

Kirby Kruger: It is a public record by law.

Chair J. Lee: The death report was the news but not the whole autopsy. But the family was looking for the whole autopsy.

Randi Jangula: We never received it, we received the autopsy 2 weeks after the article in the Fargo Forum. His physician and his surgeon had requested it. They did not receive it for another 2 weeks after.

Chair J. Lee: You received nothing.

Randi Jangula: All we received was over the phone. Jeff Kopak called my daughter and read to her over the phone. I've worked in the health care; I know HIPAA and they protect people while alive. I don't understand why it isn't protected when they are not there to defend yourself.

Chair J. Lee: It does in some cases, 24:50 had difficulty finding out health record.

Senator Clemens: That can be released, where did the information originate from even if it was authorized, where did it come from?

Randi Jangula: The editor told me, they had put in a request to the coroner's office. Hours after, they were the first to receive notification.

Senator Clemens: So it basically come from the state.

Chair J. Lee: When the death record is completed, they have to release it.

Randi Jangula: High profile case, he wasn't high profile. My son was private person, when he got done playing football he never talked it. He shied away from the media. But it was just handled so atrociously. The pain cost all of us, pain cost other people continues.

Senator Kreun: This would not be confidential during that 72hour period, would this require an amendment, or is it in conflict with what we're doing now?

Kirby Kruger: I would be more comfortable if it was explicit that we could keep that confidential until we have notified the family or until that 72 hours has been passed and 3 attempts have been made to notify the family as stated in the bill.

Senator Kreun: This change seems very reasonable and not obtrusive to your investigation or autopsy or your reporting of it should work with what you're doing.

Kirby Kruger: It would create quite a bit of work for us. Those notifications are done at the local level. We seldom get contact information on even who the next of kin is, let alone the telephone number on our cases. Flexibility to keep system close to what it is now yes I think it could be done pretty easily.

Senator Kreun: I guess what I indicated, that is we leave it the same add that it doesn't affect your process.

Kirby Kruger: It would add very minimal to our process I think.

Senator Anderson: I am assuming that the Attorney General's office could come up with some language that would work for this. You understand the family's concerns. Obviously to, you know the autopsy requested by local coroner, we don't want it to be secret for 72 hours while law enforcement agencies is trying to follow up on their investigation about what happened here, either. So there needs to be a provision in there to be sure that the coroner or the law enforcement agency who's looking to find out why that guy died so they can prosecute.

Kirby Kruger: I think right now there are provisions in the law that exempts us releasing information to law enforcement into the local coroner, because it is a corner's case in ND, so it's their case to begin with, we are really assisting the coroner.

Chair J. Lee: In your ideas removing requirement to contact, but hold private for 2 weeks as a manner of death. In your remarks you talked about if it's the same thing, 72 hours, so.

Kirby Kruger: We hold it 2 weeks if we don't attempt contact, but 72 hours if we are contacting family.

Chair J. Lee: Would you have the opportunity to talk to the Attorney General's office or certainly with one of the people in Legislative council. Would you be able to help us with amendment on this?

Kirby Kruger: I would be able to do that.

Chair J. Lee: closed hearing.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2264
2/6/2017
Job Number 27919

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mame Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to providing notification of the report of death to the next of kin of the deceased.

Minutes:

1 attachment

Chair J. Lee: Opened the hearing on SB 2264. Senator Clemens was absent. Committee discussed amendment proposed by Kirby Kruger, **please see attachment #1.**

V-Chair Larsen: I move adopt proposed amendment.

Senator Kreun: Second.

Chair J. Lee: Kirby Kruger felt that this was an appropriate effort to contact family.

Senator Piepkorn: The change is from immediately to 14 days.

Chair J. Lee: The other thing that's different is that they make every effort to do it in 72 hours. If they're unable to make that contact, it becomes record as soon as family is contacted or 14 days, whichever is first.

Senator Piepkorn: Did they work it out with family and Sen. Bekkedahl?

Chair J. Lee: I don't know; I can't imagine that the family wouldn't be ok with this.

A roll call vote was taken.

Amendment adopted.

V-Chair Larsen: I move do pass as amended.

Senator Kreun: second

Motion passes. 6-0-0.

Senator Heckaman will carry.

Senator Clemens recorded his vote.

Final vote is 7-0-0.

February 6, 2017

ET
2-6-17
p. 1 of 1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2264

Page 1, line 9, overstrike "is" and insert immediately thereafter "becomes"

Page 1, line 9, overstrike "subject to disclosure under section 44-04-18."

Page 1, line 9, remove "However, the"

Page 1, remove lines 10 through 16

Page 1, line 17, replace "death may be disclosed as permitted by law" with "after the deceased's next of kin is notified, or fourteen days have elapsed since the time the report of death was completed, whichever occurs first. The next of kin is responsible for providing to the state forensic examiner or the examiner's designee satisfactory proof of relationship to the deceased and contact information for notification of the autopsy results. The state forensic examiner or the examiner's designee shall make a good faith effort to notify the next of kin using the provided contact information within seventy-two hours after the report of death is completed"

Re-number accordingly

Date: 4/6 2017

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2264

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: 17.0338.03001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider

Motion Made By Sen. Larsen Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)	X		Senator Merrill Piepkorn	X	
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2/6 2017

Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2264

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: 17. 0338. 03001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider

Motion Made By Sen. Larson Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)	X		Senator Merrill Piepkorn	X	
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Heckaman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2264: Human Services Committee (Sen. J. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2264 was placed on the Sixth order on the calendar.

Page 1, line 9, overstrike "is" and insert immediately thereafter "becomes"

Page 1, line 9, overstrike "subject to disclosure under section 44-04-18."

Page 1, line 9, remove "However, the"

Page 1, remove lines 10 through 16

Page 1, line 17, replace "death may be disclosed as permitted by law" with "after the deceased's next of kin is notified, or fourteen days have elapsed since the time the report of death was completed, whichever occurs first. The next of kin is responsible for providing to the state forensic examiner or the examiner's designee satisfactory proof of relationship to the deceased and contact information for notification of the autopsy results. The state forensic examiner or the examiner's designee shall make a good faith effort to notify the next of kin using the provided contact information within seventy-two hours after the report of death is completed"

Renumber accordingly

2017 HOUSE POLITICAL SUBDIVISIONS

SB 2264

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Prairie Room, State Capitol

SB 2264
3/3/2017
Job # 28684

- Subcommittee
 Conference Committee

Carmen Hickle

Explanation or reason for introduction of bill/resolution:

Relating to providing notification of the report of death to the next of kin of the deceased

Minutes:

1 - 25

Chairman Klemin: Opened the hearing on SB 2264.

Senator Bekkedahl: (Testimony #1) (Time 1:21 to 4:52) Introduced SB 2264.

Senator Bekkedahl: Handed out testimony # 2 – 21, although no testimony was heard on it.

Rep K. Koppelman: Years ago the autopsy records weren't closed either.

Chairman Klemin: I noticed the proposed amendment from Newspaper Association is to change from 14 days to 72 hours. Do you have any comment about that proposal?

Senator Bekkedahl: We initially talked about 14 days. Then we went to 72 hours in the original bill trying to accommodate a scenario where next of kin notification could occur over a weekend. The committee wanted to protect even further so went back to 14 days. The newspapers originally agreed to the 72 hours but not the 14 days. In the bill that the amendment occurred in the Senate Human Services committee they put, after the deceased next of kin is notified or 14 days have lapsed since the time of the report of death was completed whichever occurs first. They wanted to make sure that if it could occur sooner and the press could be notified that was okay but they wanted to make sure there wasn't an incident that the family was not notified within that 72 hours.

Chairman Klemin: The press could be notified right away if the next of kin has been notified?

Senator Bekkedahl: Absolutely.

Rheanda Axtman: (Testimony #22) (Time 8:09 to 10:13).

Randi Jangula: (Testimony #23) (Time 11:22 to 16:47).

Jack McDonald, North Dakota Broadcasters Association: (Testimony #24) (17:18 to 20:42).

Chairman Klemin: In the original bill where it said, 72 hours, was the, whichever occurs first, language also in that?

Mr. McDonald: Yes, it was. The reason we put that in is if you notice in the bill there is no way to know when the next of kin are notified.

Rep K. Koppelman: We are trying to achieve a balance. With respect to the suggested amendment on line 15, by any means possible, what is your intent with that?

Mr. McDonald: You could try and notify them by means other than mail. You could phone, email, the way they have chosen is the slowest that is by mail.

Rep K. Koppelman: Maybe put language in to put onerous on the forensic examiner to make sure they do make that effort versus just dropping something in the mail. If we accept your amendment and change the 14 days to 72 hours do you believe that ought to be a shorter window of time? Like 48 hours?

Mr. McDonald: It could be, on the original bill it says, notification must proceed any public disclosure unless three or more documented attempts to notify next of kin over a 72-hour period have been unsuccessful. That language was taken out of the bill.

Rep K. Koppelman: What was the reason for that word change?

Mr. McDonald: I believe it was requested by the State Dept.

Rep. Johnson: We are jumping in to this pool of the public's rights to know versus privacy rights. To me a right to privacy trumps the public's right to know in this situation. Why is it about this subject matter that the public needs to know in 72 hours?

Mr. McDonald: Until 2009 everything was public all the time. In most cases when a person dies who is a relatively noticed person I think the question is why did they die? I think the general public would have a right to know why a person dies.

Rep. Johnson: I find the former argument saying just because it's always been done we should continue to always do it, that never holds water with me. I would tend to cede to a person's right to privacy before the newspapers get a hold of this. I see it as a need to sell papers, what other reason is there?

Mr. McDonald: We think the 72 hours does give that right. We agree there should be some delay and some amount of privacy, we are objecting to the 14 days rather than the 72 hours that was in the original bill.

Vice Chairman Hatlestad: Would you have a problem if we put in there the paper cannot get the information until after the next of kin has been notified? Then put in all the other methods be used but the next of kin must be notified first?

Mr. McDonald: Probably not except that is going to create problems knowing when they are notified. If we could get better documentation, yes it probably would be.

Chairman Klemin: Notified of what? Notified of the information that's in the report of death or notified of the fact of the death? What is the next of kin being notified of?

Mr. McDonald: I believe what they are being notified of and sent the autopsy report.

Chairman Klemin: So they would have already known of the fact of death prior to this happening? We only have subsection 2 in this bill and so it says, after the next of kin is notified. Is it the fact that the person has died or notified of the results of the autopsy report?

Mr. McDonald: The engrossed bill says, after the deceased's next of kin is notified or 14 days has lapsed since the time of the report of death was completed whichever occurs first. The death certificate does not contain the official autopsy results. The autopsy report would have the medical terms. As I understand it is the report of death the first page that is being notified or sent to the next of kin.

Vice Chairman Hatlestad: Could we sit down with the newspaper and press to find some way that we could guarantee next of kin notification first? Then information to the press second?

Mr. McDonald: Certainly, that was our intent to begin with. Senator Bekkedahl did talk to us ahead of time and we would continue that.

Kirby Kruger, Medical Services Section Chief with North Dakota Dept. of Health:
(Testimony #25) (Time 33:58 to 41:08)

Rep K. Koppelman: Under current law you are required to notify next of kin if they request it, is that correct?

Mr. Kruger: Yes, when they make a request we verify that they are entitled to the full autopsy report and then send it.

Rep K. Koppelman: How can we make this work? When you are asked to do an autopsy is there any information transmitted to you? Where does the request come from? Is it from law enforcement, is it from a family, is it from a funeral home?

Mr. Kruger: Generally, if there is a death that occurs, in ND we have a county coroner in every county. Law enforcement will investigate if they need to. Law enforcement and a coroner make the decision together if there should be an autopsy.

Rep K. Koppelman: When that occurs, most families are not going to have the presence of mind or have this the first thing on their radar. So is there a way to trigger that? The bill says, if the family requests it, I don't think a lot of families are going to think to request. But if you ask them a question if they want it and say this becomes public record after 72 hours or the 14 days, would you like to know first? Who could ask that question?

Mr. Kruger: That would be most likely to be most successful at the local level or funeral home level. Our attorney is not sure how Marcy's law fits into this with law enforcement. We don't know how that would work at the local level.

Rep K. Koppelman: I do see things in your statute that need to be changed, we are only looking at subsection 2 but in the amended version of the bill we are deleting the reference to 44-04-18, this has been repealed. However, in the next subsection it is mentioned again. So we need to look at the subsection again.

Chairman Klemin: After the deceased of the next of kin is notified I see the notification as being two elements. One is notified of the fact that the person has died and the second would be notified of the cause of that death, which would come after the autopsy has been completed. Which are we talking about in this section?

Mr. Kruger: For the purposes of this bill the family is already aware of the death, and it's a matter of making sure they understand the cause and manner of death or they have access at that report of death which will become public so they know what can potentially be released.

Chairman Klemin: On line 10 it says, after the deceased's next of kin is notified. It could say, to the cause and manner of death. That is what they are being notified of in this bill, is that right?

Mr. Kruger: That is my understanding.

Chairman Klemin: Normally the family would already know that the person has died and we are not surprising someone with the fact that a person has died.

Rep. Johnson: Does the statute provide the length of time that is required to inter or otherwise dispose of a body?

Mr. Kruger: I don't believe there is anything in this particular statute that deals with disposition. We are not responsible for final disposition.

Vice Chairman Hatlestad: You indicated you seldom got a full address or phone number to notify the next of kin, where do you get that information of what you do get?

Mr. Kruger: The information generally comes from either the county coroner or law enforcement if they are investigating.

Vice Chairman Hatlestad: Do you have a report that you request they fill out?

Mr. Kruger: There is a cover sheet that comes with the body that the local officials are to complete. Which includes that type of information, sometimes they don't even have that information at the time they are submitting the body.

Chairman Klemin: When it says on line 15, make a good faith effort to notify the next of kin using the provided contact information. What we are asking is who provides that contact information?

Mr. Kruger: We are intending that to be the information that is coming from family when they are making the request.

Rep K. Koppelman: The sheet you just described, could there be a sort of a heads up on that sheet? And do you create the sheet? If you do and ask for certain information, could there be something there that would stimulate the effort to get this question answered from the next of kin? Do you want this information immediately before it becomes public? They could say yes then please provide us with information. Is that something that could be changed on the form?

Mr. Kruger: I think that is a possibility.

Rep. Zubke: It sounds to me you made some reference to the Newspaper Association amendments and it sounds like you would like them to say, by any available means, instead of, by any means possible. The 14 days as opposed to the 72 hours are you opposed to the 72 hours or are you comfortable with the 72 hours?

Mr. Kruger: When we came up with the 14 days it was looking at the fact that 80% of our families aren't requesting any information and they are getting that through the normal death certificate process which is generally faster than 14 days. For those families who aren't requesting anything from us this allows enough time to make sure that at least the death certificate process is working.

Chairman Klemin: The part, by any available means, that language concerns me because the department can say the first class mail is an available means so we can continue sending it out by mail and they will get it whenever it is delivered by the post office. That language can allow you to continue to keep doing exactly what you have been doing which may not be fast enough.

Rep. Ertelt: You said currently the department is not releasing the report of death until the death certificate is finalized. What is the time elapse between the two?

Mr. Kruger: When Dr. Massello, Forensic Pathologist, gets all the information he needs to complete the cause and manner of death he will go on line and complete the death certificate. Then he will complete the report of death generally they are done on the same day.

Rep K. Koppelman: The Chairman has asked a couple of times about the difference between the notice of death, which we see published in the newspaper. Often times we will read in the news there has been a car accident but the names are not being released pending notification of the next of kin. Is that a courtesy or is that something required under law? Could something similar be applied here?

Mr. McDonald: It is both, it is required by law there is a provision in state law that says you have a certain period of time.

Chairman Klemin: Closed the hearing

Subcommittee Rep. Hatlestad will be chairman, Rep. Guggisberg, and Rep. Johnson.

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Prairie Room, State Capitol

SB 2264
March 9, 2017
Job # 28993

Subcommittee
 Conference Committee

Committee Clerk Signature

Carman Heckel

Explanation or reason for introduction of bill/resolution:

Minutes:

1

Vice Chairman Hatlestad: (Handout #1) Opened the meeting for the subcommittee on SB 2264.

Vice Chairman Hatlestad, Rep. Johnson and Rep. Guggisberg were in attendance.
Jack McDonald, ND Broadcasters Association was also in attendance.

Vice Chairman Hatlestad: Discussed the handout. Autopsy report, working papers and notes are confidential and may not be released. All agreed. The next of kin they are responsible for providing the proof of relationship and contact information for notification. The funeral directors had stated they do not make contact until after the autopsy has been completed and then the body is turned over to them.

Rep. Johnson: Is there a definition (inaudible)

Vice Chairman Hatlestad: I'm guessing it is a parent or relative.

Rep. Johnson: But what if a family member dies and the next of kin are at odds?

Vice Chairman Hatlestad: They would just have to notify one of you.

Rep. Johnson: Or all of you?

Vice Chairman Hatlestad: There could be people scattered over the United States. It's too broad of a definition.

Rep. Johnson: I don't know if it's in the Code or not? What about next closest relative?

Vice Chairman Hatlestad: The next closest relative is responsible?

Rep. Johnson: (Inaudible)

Vice Chairman Hatlestad: If it is a child it is mom and dad.

Rep. Johnson: If we don't define it the state forensic examiners have to give it (Inaudible)

Vice Chairman Hatlestad: On the handout the next one says, the coroner or state forensic examiner shall notify the next of kin.

Mr. McDonald: There is a definition where the Highway Patrol uses it is defined. There was a question when that was enacted, if there is an auto accident they will not release the name until the next of kin has been notified. So there is a provision in state law.

Vice Chairman Hatlestad: We need to look at the definition. Once we get the definition that individual or individuals will be responsible for notifying the contact information. You have to have to proof of relationship?

Mr. McDonald: I don't think there is anything in law about proof of relationship.

Rep. Guggisberg: How do you prove you are related?

Vice Chairman Hatlestad: A birth certificate.

Rep. Johnson: Or a marriage license. Then you have to go to the county courthouse in some states and get an embossed one.

Rep. Guggisberg: Though law enforcement should be able to provide who next of kin is. If they are doing this for vehicle accidents, they know these answers.

Vice Chairman Hatlestad: Do we have to have proof of relationship in there? Or shall we say, the next of kin is responsible for providing contact information for notification of the autopsy?

Rep. Guggisberg: Could we refer to the section that covers the Law Enforcement notification of next of kin?

Vice Chairman Hatlestad: In the amended bill we received it is not in there. They will notify the decedent's next of kin. I don't think we need that in there. Is it acceptable to say, the next of kin is responsible for providing to the state forensic examiner, or the examiners designee? Then scratch out everything up to, contact information for notification of the autopsy result.

(Inaudible)

Vice Chairman Hatlestad: It says, a full autopsy report after verification of family relationship. The next paragraph, the county coroner or state forensic examiner shall notify immediately. We should put in, after verification of family relationship the report of death?

(Inaudible)

Vice Chairman Hatlestad: We could take, satisfactory proof of relationship, out from there and move it down to where is says, county coroner shall notify immediately after verification of family relationship.

Rep. Johnson: I don't think that is necessary because they already provided it in the previous.

Vice Chairman Hatlestad: I am taking it out of the previous one. I'm going to say, the next of kin is responsible for providing to the state forensic examiner or examiners designee contact information. I think these two are totally different. Someone is responsible for providing contact information, the coroner cannot release it except after verification of the family relationship.

Rep. Johnson: They have to get that from the person who is claiming to be the next of kin. (Inaudible)

Vice Chairman Hatlestad: The next item is the time frame.

Mr. McDonald: I found in law the death of someone who was in an automobile accident. Read the Century Code relating to the next of kin. Code reads, Investigators cannot release the identity of the person or persons seriously injured or deceased until a member of the immediate family has been notified and given the opportunity to notify other members, 24 hours have lapsed from the time of positive identification. Then it says, for the purpose of this section immediate family means spouse, parent, child, sibling, or any person who regularly resides in the household of the seriously injured or deceased persons.

Rep. Johnson: Wouldn't there also be rules of how they (Inaudible)

Vice Chairman Hatlestad: Kirby said in his testimony they can't release it until after verification.

Rep. Johnson: So there must be rules and regulations regarding how that is done for the forensic examiner.

Vice Chairman Hatlestad: You would have to show.

Rep. Johnson: (Inaudible) Maybe there are administrative rules or statutory.

Vice Chairman Hatlestad: We can call Kirby and ask how to verify family relationship. When we talked about, next of kin responsible, should we put in that definition? Next of kin responsible for providing contact information. Do we have to put that in or the fact that it is in Code already is that enough?

Mr. McDonald: I would think you might want to leave it as, next of kin. That is used in a lot of different context within the Code. Defining that is a problem by itself. If you start trying to define, next of kin, the bill as introduced didn't do that and I think then you will have all of these questions.

Rep. Johnson: We need to make sure we are not contradicting something we already have. What the police do on a sudden death might not be what the forensic examiner does on an autopsy.

Mr. McDonald: The autopsy is always several days if not weeks after the death. It is an entirely different set of circumstances. Everybody already knows about the death and the funeral was already conducted.

Vice Chairman Hatlestad: What about time frame?

Rep. Johnson: (Inaudible)

Mr. McDonald: I think that the original idea of 72 hours, the motor vehicle has a 24-hour time limit. In this case 72 hours was reasonable in order to notify them of the autopsy report that it is available.

Rep. Johnson: I am going to disagree with that because circumstances are different in situations. Regarding a death not occurring by catastrophe is different because there could be very many causes. And very many causes the family wishes to grieve before the press gets a hold of it. I think that the statutes provide for that you have 8 days to dispose of a corpse. That 8 days should be the limit. That after 8 days it becomes public record. Let them address it after the funeral.

Rep. Guggisberg: That makes sense to me. When someone dies in a car accident then notify after 24 hours? Someone is involved in a car accident or dies in a car accident?

Mr. McDonald: Dies.

Rep. Guggisberg: Dies in a car accident they notify after 24 hours?

Mr. McDonald: yes

Rep. Guggisberg: What is the 72 hours after report of death? What is the difference between the report of death and someone dying in a car accident?

Vice Chairman Hatlestad: The report of death is the autopsy report.

Mr. McDonald: The report of death is the only thing that is public. If you had an autopsy that was 8 pages thick, the only thing that would be public would be the first page. That is the one that gives all the vital information. This whole bill is dealing with a very rare circumstance. They were upset because they wanted to tell the whole family together. I would think 3 days would be sufficient amount of time. Kirby testified that very few people request it.

Vice Chairman Hatlestad: In the bill it talks about, the record of notification must be made, so if we have in there, the confirmation of family notification. Then 5 days? Once you have been informed of the cause of death how long?

Mr. McDonald: I think the idea was to set a time limit to try to notify them but after so many days it will be public no matter if there is notification. If you pick 5 days, they should immediately try to notify them of the cause of death, in the original bill. But after 72 hours it's public even if you could notify them. In an accident it's 24 hours' even if you couldn't notify them. In this case it gives you the time to notify next of kin. In the original bill it was 72 hours, 3 days or whatever occurs first. If the notification occurred 24 hours after, then it would have been public.

Vice Chairman Hatlestad: On the bottom of the sheet I handed out it says, after the confirmed notification to the next of kin the report of death becomes public.

Mr. McDonald: That leaves it wide open, it could take a month. If you have to wait 8 days, there can be all kinds of rumors out that.

Rep. Guggisberg: The whole argument about letting the whole family know and them deciding has nothing to do with this. This is when the next of kind is notified then it's public. What we are talking about with the days is how long the neighbors or whoever is trying to find the next of kin has (Inaudible) What we are talking about finding the next of kin.

Vice Chairman Hatlestad: What this says is, it doesn't become public record until after the confirmed notification of the parents or next of kin. We would have to define is how do you find notification?

Mr. McDonald: When we have the accident that happens also it says, a member of the immediate family. Because if you define next of kin as all of the immediate family than it could take forever to notify them. If you say, after notification of the next of kin, that could be an endless process.

Rep. Guggisberg: The next of kin would be the closest.

Vice Chairman Hatlestad: Not according that definition.

Rep. Johnson: you would have to define that but now we are going backwards. (Inaudible)

Vice Chairman Hatlestad: If we put, 5 days after the confirmed notification to the next of kin.

Mr. McDonald: Then you are adding how long they have to notify the next of kin. So if they take 5 days to notify the next of kin and have to wait 5 days afterwards then it is 10 days. Then if they take 15 days to notify the next of kin then we have 25 days. I think it has to be one or the other, whichever occurs first. Upon notification of next of kin or the passage of 5 days whichever occurs first.

Rep. Johnson: That next of kin needs time to talk to the family. 5 days from the notification to one next of kin.

Mr. McDonald: That is a loose definition now.

Vice Chairman Hatlestad: So how long? You think 8 days?

Rep. Johnson: That is because 8 days is the time you have to bury them.

Rep. Guggisberg: What if we said, within 8 days?

Mr. McDonald: One of the reasons you write a newspaper story is because it's a fairly prominent person. One of the reasons they gave access to autopsy reports in the first place was to put an end to rumors.

Vice Chairman Hatlestad: Shouldn't I have a few days to notify my family once I have the report?

Mr. McDonald: Yes, if you don't already. But I thought 3 days was a way to notify your immediate family.

Rep. Johnson: It takes a while to inform especially large families.

Vice Chairman Hatlestad: So after I get the autopsy report how long should I have to let my family know before the public knows?

Mr. McDonald: My feeling 3 days was sufficient. Right now it's available immediately.

Rep. Johnson: But the Senate sent us a bill that passed with 14 days.

Mr. McDonald: Yes, that is because Judy Lee asked, "Kirby what do you think you need?" Kirby responded with 14 days.

Vice Chairman Hatlestad: But if I suggested, 3 days after the confirmed notification of the family the report of death becomes public record.

Mr. McDonald: Then the question becomes, how long does this confirmed notification take?

Vice Chairman Hatlestad: On the report of death is the cause of death.

Rep. Johnson: the report of death and autopsy report are interchanging.

Vice Chairman Hatlestad: No you don't get the whole autopsy report, you just get the cause of death.

Mr. McDonald: Right.

Rep. Johnson: So the report of death says dead and why. But I don't think it should be immediately after the deceased next of kin has been notified. The journalist could be standing next to you.

Vice Chairman Hatlestad: That is why his amendment to 3 days. That is why I said, 3 days after the confirmed notification of the next of kin. So Jack's question is how long does it take them to notify?

Mr. McDonald: Why don't you give them 3 days? Say, they have 3 days to notify the next of kin and then 3 days after that it becomes public. Then it would be 6 days at the longest. If you confirm you notified the person the day afterwards, it would be 3 days after confirmation, but you have to put a limit on the time for confirmation. Give them a 3-day limit.

Vice Chairman Hatlestad: Give the forensic examiner 3 days? The forensic examiner has 3 days to notify, what if they can't get it done in 3 days?

Rep. Johnson The autopsy is done?

Vice Chairman Hatlestad: The autopsy is done.

Mr. McDonald: This is only notification, the autopsy is done.

Vice Chairman Hatlestad: So we giving them 3 days to notify the next of kin and then 3 days after the confirmed notification?

Mr. McDonald: I would prefer just the 3 days but if you want to put in more room, the 3 days after confirmed notification isn't bad. We can live with that. But you have to put a time limit on the time of confirmation otherwise it can go one for weeks.

Vice Chairman Hatlestad: what if there isn't anyone to notify?

Mr. McDonald: Remember this is after a funeral and after the autopsy report is done so presumably the next of kin has already been involved to some extent unless this is entirely a homeless guy.

Vice Chairman Hatlestad: There is probably no autopsy if there is no next of kin.

Mr. McDonald: Next of kin has to request an autopsy report. I'm not so sure if they automatically send it to them. There is a statutory report that an autopsy be done. I'm not sure if there is a statutory that it has to be given to somebody. If it is an unintended death the autopsy report goes to the states attorney to determine if there is any kind of legal action filed.

Vice Chairman Hatlestad: That wouldn't become public record then.

Mr. McDonald: if it's a criminal investigation it does not become public record.

Rep. Guggisberg: If we said, after the autopsy is complete, 4 days to track down the next of kin, then after the next of kin is notified, 48 hours to release it to the public.

Vice Chairman Hatlestad: I would rather give it 3 and 3.

Rep. Guggisberg: I was thinking 4 because, if it happens over a weekend. We're not talking about jumping in the horse and buggy and telling everyone. You should be able to let them know in 48 hours.

Rep. Johnson: (Inaudible)

Rep. Guggisberg: After they reach the next of kin it gives them 48 hours to tell their family.

Mr. McDonald: I would get language that they notify the person immediately, which is probably going to be the case most of the time. Most of the people are reachable by phone, so if they are going to phone the person, right now one of the problems is Kirby said they feel they can only do this by mail. That is why it takes so long.

Vice Chairman Hatlestad: If you are going to get the full autopsy report how else can you send it? It would have to be by email, text or mail.

Mr. McDonald: You could phone and give some information and tell them the full autopsy report will come in the mail.

Rep. Johnson: (Inaudible)

Rep. Guggisberg: I'm kind of thinking the opposite though where if the media isn't going to leak out, depending how famous the person is, then the rumor mill will be running for 4 days.

Rep. Johnson: In this era of IT and fake news, who knows what's true and what's not. But we had evidence right there that said the young lady was hounded, she resented it, she said she didn't want to know and he told her anyway. That to me is unacceptable and that is our evidence.

Mr. McDonald: That is not quite the way it was.

Vice Chairman Hatlestad: She didn't say she was hounded.

Rep. Johnson: She said Jeff Kolpack called her and said did you get the report? Then you are talking over a weekend and you don't have time to get together with your doctor and the relatives and review it to let them know first. She didn't even know the cause of death. And she was being called by a guy that does know, he wants her to know and comment on it.

Mr. McDonald: According to what Jeff Kolpack said was he called her and asked her if she had any comments and she didn't know. So he said, do you mind if I tell you, and he said she did not respond. So he took that as an assent so he said, he died of this do you have any comments to that? She said we want to talk about it in our family. One phone call was not being hounded. The family proceeded to talk to the Forum about not running this story, but at that time they didn't want any story about the cause of death.

Vice Chairman Hatlestad: I'm thinking 3 and 3. We are saying 3 days after the confirmed family notification, once the family knows they have 3 days to notify their family, then it becomes public record.

Rep. Johnson: You don't have to put that requirement on the forensic examiners.

Vice Chairman Hatlestad: We could say, after confirmed notification.

Rep. Johnson: I'm saying 4 days, because if you have the report on a Friday you have at least until (Audible)

Rep. Guggisberg: After the notification, 4 days? That is opposite of what I was thinking. I thought it would take longer to find the next of kin.

Rep. Johnson: If I got the results on Friday at 5 and I can't get to the doctor (Inaudible)

Rep. Guggisberg: Who goes over the autopsy with these people, is it doctors?

Vice Chairman Hatlestad: She said the doctors weren't notified.

Mr. McDonald: The doctors have nothing to do with it.

Rep. Guggisberg: Then you should have the forensic examiner go over it with them.

Vice Chairman Hatlestad: Like you said, verbally inform the family, then we put the full autopsy in the mail?

Mr. McDonald: I understand why they have to put the full autopsy in the mail because sometimes it is considerable pages. But I don't understand why you can't earlier let them know what the autopsy report found out.

Vice Chairman Hatlestad: Would a certified letter go quicker?

Mr. McDonald: I don't think so. The only thing a certified letter does is you get something back that says it arrived, it does not get there quicker.

Vice Chairman Hatlestad: We are talking about the need for confirmation, how do we do that? I assume we trust the examiner who says I made contact with the mother, I explained the cause of death, notified her that the autopsy would be mailed, now you have 3 days before it goes public.

Rep. Johnson: (Inaudible)

Vice Chairman Hatlestad: I can live with 4.

Rep. Guggisberg: So that will make it half of what the Senate sent us.

Vice Chairman Hatlestad: The Senate gave them 14 days.

Rep. Guggisberg: But that would be 3 and 4.

Vice Chairman Hatlestad: How long are we going to give them to notify? The examiner needs to track down the next of kin.

Mr. McDonald: The autopsy is already done and in your hand, so how long do I have to notify? I think you have to put some limit on that. One of the difficulties is next of kin information is difficult to come by. In that case he was talking about notification of death not the autopsy.

Rep. Johnson: How about they cannot do an autopsy before they have the next of kin information? They must have their policy and procedures.

Vice Chairman Hatlestad: He might get just a name.

Rep. Johnson: According to Kirby's testimony they are then going through some process and do the autopsy because they are the ones to report.

Vice Chairman Hatlestad: It was an unattended death so it is automatic. The family would still have to request a copy of the report.

Mr. McDonald: I am not sure where those autopsy reports go right now. I know law enforcement gets them but I don't know who else gets them.

Vice Chairman Hatlestad: The next of kin needs to be notified first, how long before it's public record?

Rep. Johnson: Four days. I don't think we can quantify the time required to the medical examiner.

Vice Chairman Hatlestad: Maybe we need to talk with Kirby and find out how long it normally takes them.

Rep. Guggisberg: Do we want to say they have to wait 4 days? What if the family is okay releasing it right away?

Rep. Johnson: Then they give permission to the forensic examiner to release it and they note that. We can say 4 days or earlier at the discretion of next of kin.

Mr. McDonald: It takes 4 days to notify relatives?

Rep. Johnson: It's also the time to get with your doctor to understand it. Then we understand it, we are still in the midst of bereavement, but the Forum wants it so I guess they get it.

Mr. McDonald: That was not the case in this case, they weren't trying to talk with the doctors they wanted to tell everyone at the same time. That is a hard thing to do.

Vice Chairman Hatlestad: We need to get some information from Kirby and then meet again. Scheduled Tuesday at 8:00.

Rep. Johnson: (Inaudible)

Mr. McDonald: There is no time limit of when he notifies the family now. He said we usually just stick it in the mail. As soon as they get the autopsy completed it's available.

Vice Chairman Hatlestad: We were talking about the possibility of a verbal notification and explanation of cause of death. That starts the clock on the 4 days.

Rep. Johnson: (Inaudible)

Rep. Guggisberg: If we are concerned about the snail mail, this will very seldom be an issue. But in those cases when they can't get the one sheet right away fax it to the Sheriff's Dept. and have them drive it over. But what you said about the forensic examiner call and explain it over the phone. Once they know why they died even over the phone (Inaudible)

Vice Chairman Hatlestad: We are going to fax the top sheet.

Rep. Johnson: (Inaudible)

Vice Chairman Hatlestad: I am going to ask Kirby if they can over the phone explain the results.

Mr. McDonald: I can almost guarantee they do not want to do that. Kirby is not trained to understand all the medical stuff. For liability purposes he is going to read what's on the front page of the report, he won't go into explanation.

Vice Chairman Hatlestad: How can he be a medical examiner and not understand all the terminology? Doesn't he have to be a doctor?

Mr. McDonald: If the cause of death says heart attack he will tell the person that. But I don't think Kirby is responsible for going into what caused the heart attack.

Rep. Guggisberg: That is explaining it.

Mr. McDonald: Basically the report of death is the same as the death certificate. The only thing is that the death certificate is sometimes prepared very quickly. Sooner than the autopsy report comes in. Lately they have been waiting for the autopsy report to prepare the death certificate, which upsets a lot of family members, because you have to wait 10 days to get the death certificate.

Vice Chairman Hatlestad: We will recess until Tuesday at 8:00.

Minutes of the

(HOUSE) (SENATE) BILL NO. 22nd SUBCOMMITTEE OF THE

Pol. Subv STANDING COMMITTEE

Meeting location: Travis Room - 2nd floor - State Capitol

Date of meeting: March 9 & March 13

Time meeting called to order: 3:00 & 8 AM

Members present: Ron Cuggisberg, Mary Johnson, Hatvick
Wattlesford

Others present (may attach attendance sheet):

Jack McDonald, Kirby Kruger, Dr Mizole

Topics discussed:

Autopsy report & notification of next of kin.
Time frame on release of report of death to
news media.

Motion and vote:

Rep. Mary Johnson moved to adopt the
loghouse amendment. Rep. Cuggisberg second.
Johnson - eye - Cuggisberg - eye - Wattlesford - eye

Time of adjournment: 8:45 AM.

Note: If a motion is made, a description of the motion must be provided along with the member seconding the motion. A recorded roll call vote must be taken and reported for any nonprocedural motion.

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

SB 2264
3/15/17
Job # 29201

- Subcommittee
 Conference Committee

Carmen Hicks

Explanation or reason for introduction of bill/resolution:

Minutes:

1,2,3

Vice Chairman Hatlestad: (Handouts #1, #2) Opened the subcommittee meeting on SB 2264.

Vice Chairman Hatlestad, Rep. Johnson and Rep. Guggisberg were in attendance.

Kirby Kruger, Medical Services Section Chief ND Dept of Health: The way the verbiage is we are confused and we have some questions. Part A the next of kin is responsible for providing the state forensic examiner satisfactory proof of relationship. Now only about 20% are making requests for autopsy results sent to the family. So 80% of those do not come with a lot of information about the next of kin. We may get a name of somebody but we are not getting addresses, phone numbers or emails. We are wondering if B is conditioned upon A? We have to carry through with B if we have the information that is in A or is B requiring us to make a notification for every case we autopsy?

Vice Chairman Hatlestad: You indicated if we put in B, once notified, then that would give you the direction you needed?

Mr. Kruger: Yes, that would indicate to us that if we have the information about the next of kin and they are lawfully allowed to receive results than we could make those notifications.

Rep. Johnson: Wouldn't that be onerous if you have to start?

Mr. Kruger: If A is met we are going to have good locating information and it will be easier for us. Once that family provides who the autopsy results and they prove they can receive them, then that could happen easier for us. The way it reads, this could be part B is interpreted that we have to notify every family of the autopsy results regardless.

Vice Chairman Hatlestad: We were concerned only the families that requested the information. So we need to put something in A to the effect, the next of kin requesting an autopsy results are responsible?

Mr. Kruger: If we add clarification to B indicated that the state forensic examiner using the information provided by next of kin or other authorized represented. We would then make notification. We are trying to get at right now we can interpret the bill that would require us to notify every family of the autopsy results of every case and have very limited information on contacts. Unless the family is specifically requesting information.

Rep. Guggisberg: How long does a typical autopsy take? Is it ever you that is looking for the next of kin?

Mr. Kruger: Generally, when a death has occurred and the local officials have determined an autopsy is needed that body is shipped and the next day we do the autopsy. Dr. Massello has said 70 or 75% cause and manner of death can be determined in a day or two. But if there is toxicology profile or tissue that have to be examined then that can extend to six weeks. At that time there would be a completion of the autopsy.

Rep. Guggisberg: Is it you that is looking for the next of kin or is that provided to you?

Mr. Kruger: No that is not us. The only time we have any contact with next of kin is if they want contact from us, if they want clarification or counseling on what happened we are available. Our primary support is to support local coroners and local law enforcement.

Rep. Johnson: I am thinking if we leave A in, that would be something the funeral home will help the family with. The report of death in most circumstances is the next day, the report of death and the autopsy follows?

Mr. Kruger: No, the report of death is a cover sheet for the autopsy, it contains the cause and manner of death. That will not get finalized until we know what the results are. It is part of the autopsy report it's just the cover sheet that summarizes the basic information about the death. That will get finalized when the autopsy is finalized. At the same time, we are completing the death certificate, which is a separate process.

Rep. Johnson: That doesn't indicate a cause of death?

Mr. Kruger: The death certificate does, Dr. Massello will complete the death certificate when a forensic examination has taken place. The public part of the death certificate does not have cause and manner of death.

Rep. Johnson: So nobody can access that part of it? How long from the time of death until the report of death with autopsy?

Dr. Massello: State Medical Examiner: Normally when a death is reported it takes a day to actually do the autopsy. The autopsy is completed on the same day the body arrives or the day after. In about three-quarters of the cases the autopsy report is ready to be transcribed. The report of death and the death certificate is ready to be finalized with the cause and manner and mode of death. It is a public record the same day the autopsy is completed. In 25% of the times we need to wait three to six weeks before we are able to finalize cause, manner and mode of death, and finalize the report of death.

Rep. Johnson: From the time of death to the availability of the report of death and autopsy, can you give me a timeframe?

Dr. Massello: It would be anywhere from 24 hours to 3 months.

Rep. Guggisberg: Of the autopsy how many times does the media ask for release of the record?

Dr. Massello: I would say 10 to 20%.

Rep. Johnson: 10 to 20% of the 250 autopsies performed in a year?

Dr. Massello: Our office last year performed 244. If you include autopsies performed for the eastern counties it would be somewhere between 450 to 500.

Vice Chairman Hatlestad: Of the 244 autopsies you had to provide information to family or next of kin, how many?

Dr. Massello: About 25% for the families and then the media between 10 and 20%.

Jack McDonald, ND Newspaper Association: (Proposed amendment #3) I handed out a copy of the engrossed bill with some jotted times on it. The key issue is the amount of time to notify the next of kin. I said three days after the next of kin is notified or four days after the completion of the autopsy the record would become public. We would give the Health Dept. 3 days after the notification of next of kin or four days has lapsed since the report of death. If they notify the next of kin, the same day then it would be three days after that. Also include, by all available means, which the Attorney General's office had recommended.

Vice Chairman Hatlestad: The report of death becomes public four days following the notification of next of kin, whether verbal or written. Would that take care of, by all available means?

Mr. McDonald: I believe it would. My concern with your proposal in C is that it could take two weeks to notify the next of kin. I think there has to be some time after the next of kin is notified to give them that time but there has to be some time limit on the notification of the next of kin.

Rep. Johnson: Would you agree to four and five rather than three and four? We know in this time frame relatives are trying to plan a funeral, gather everybody and do all this stuff and now they are tasked with more heartache over the press getting the reports. All of this is going on at the same time they have eight days to inter or otherwise dispose of a body.

Mr. McDonald: I would not object to 4 days after notification of the next of kin. I'm saying there needs to be a time limit when they notify the next of kin as well. We are talking about the case where there was a three-week delay from the time of death and the autopsy was completed.

Vice Chairman Hatlestad: In the Jangula case it was three weeks from the time the autopsy was completed?

Mr. McDonald: No, I am saying three weeks from the time of death.

Vice Chairman Hatlestad: So once the autopsy was completed at the end of three weeks, then the family was notified and we would give them four days?

Mr. McDonald: Under my proposal if they called the next of kin and said the autopsy is ready this is what it said and we are putting in the mail. Three days after that phone call it would become public. If they couldn't talk to the family and they would just mail it. Then it would be four days after the report of death was completed.

Vice Chairman Hatlestad: How about four days either way? Instead of three and four, just four days.

Mr. McDonald: I wouldn't have any objection to that. What I want to avoid that it takes them a week to notify, otherwise that time could stretch into two weeks.

Rep. Guggisberg: I'm good with the four and four.

Vice Chairman Hatlestad: Kirby could you come back up please? You have completed the autopsy and completed the report of death on average how long does it take you to notify?

Mr. Kruger: That happens quickly, if they requested a call Dr. Massello will notify them that day or the next day. If they do not request a call, we will mail a copy within a couple of business days.

Vice Chairman Hatlestad: So about two days max that you will notify?

Mr. Kruger: After it is complete, right.

Rep. Guggisberg: I assume you already have something in place that when you need to notify the next of kin to verify them now?

Mr. Kruger: We use the documentation that was sent that they can actually receive the autopsy results. Generally, they are requesting the whole report so we have to verify. This is a process we would have to go through with this new law. If this passes the report of death would not be public until we notify kin. So we have to make sure that when we are sending out the report of death that they are authorized to get it.

Rep. Guggisberg: Is the contact typically between you and the kin or does it go through the county coroner?

Mr. Kruger: In the typical death where the family has not requested any information from us, the contact is either with law enforcement or funeral home, but most often the funeral home. In those cases, the family is finding out the cause and manner of death with the death certificate. Our biggest concern is that there is language that we are not required to make contact with every family we do an autopsy on.

Jack McDonald: The point Mr. Kruger made about, a person otherwise authorized, is very important. It might not be the next of kin but someone else authorized to receive the report of death. Before you start the probate you need to file a copy of the death certificate with the court.

Vice Chairman Hatlestad: How about if I put all of this together and then we can make a motion?

Rep. Guggisberg: Are we were working off the bill with the amendments or A,B,C?

Vice Chairman Hatlestad: I was working off of A,B,C. Recessed the committee.

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

SB 2264
3/17/2017
Job # 29390

- Subcommittee
 Conference Committee

Carmen Hicklo

Explanation or reason for introduction of bill/resolution:

Relating to providing notification of the report of death to the next of kin of the deceased

Minutes:

1

Chairman Klemin: Opened for committee work on SB 2264.

Vice Chairman Hatlestad: (Proposed amendment #1) Explained the proposed amendment he distributed and explained the subcommittee decisions. Made a motion to approve the amendments.

Rep. Maragos: Second the motion.

Rep K. Koppelman: The wording in B, notification or attempts to notify, it says, shall notify immediately, before that. What are we asking for due diligence? If they make one phone call to the number they have and no one answers the phone is that an attempt to notify?

Vice Chairman Hatlestad: We thought about that but how do you put numbers in there?

Rep K. Koppelman: I see we added one day, when the bill was heard some of who favorited the bill thought maybe it was being disclosed too quickly. The media felt 72 hours was fair.

Vice Chairman Hatlestad: We didn't think they needed the 15 days. We talked about 7 and agreed on 4.

Chairman Klemin: The original bill says, make good faith effort to notify the next of kin. Did you consider putting that in?

Vice Chairman Hatlestad: We did not, because in part with the information the family provided it would be easier to get a hold of the individuals.

Rep K. Koppelman: I see disconnect in letter B because, shall notify, would indicate they have to do that. Maybe that is too stiff? Right after that we get into, notification or attempts to notify. So we are saying, you must notify, and then we say, if you do or try to.

Chairman Klemin: Subdivision A said they have to give contact information and subdivision B says, when in receipt of the contact information.

Rep K. Koppelman: So if they make one phone call to the phone number they were given and there is no voicemail and no answer, that certainly is not notification. But does it fall into the attempt to notify?

Rep. Maragos: (Inaudible) That sentence says the attempt must be recorded. I don't see any problem with that language.

Rep. Ertelt: What do you see as the method of recording the attempt?

Vice Chairman Hatlestad: In the notes of the examiner they would have to record it.

Rep. Pyle: In the original bill the notification must precede any public disclosure of report of death unless three or more documented attempts to notify the next of kin over a period of 72 hours has been unsuccessful. It is rewording what they already had. The documentation part is not new it's already in there. I think it is worded in an appropriate manner.

Vice Chairman Hatlestad: Rep. Pyle do you recommend that be added back in?

Rep. Pyle: I was looking at one of the versions of the bill.

Chairman Klemin: Subdivision A requires them to provide contact information. And once they provide that information and if they send a notice to that contact information, why do they need to keep trying if they have done something that was requested?

Rep. Pyle: I'm agreeing with what written that it isn't anything new. I'm just glad to see it in section B.

Rep K. Koppelman: I'm not as concerned about the notification documentation. My question was on the seeming disconnect between the notification requirement and the documentation requirement. It says, shall notify, but there should be good faith effort made to accomplish it. The next sentence says, notifications or attempts to notify, it implies that you don't notify. You need to diligently try to notify based on the contract information you were given and you at least document the attempts.

Chairman Klemin: So it would say in B, when in receipt of the information subdivision A, the state forensic examiner, the examiners designee, county coroner or pathologist who performed the autopsy shall make a good faith effort to notify the decedent's next of kin. The rest would be the same, is that acceptable Vice Chairman Hatlestad?

Vice Chairman Hatlestad: Yes, it would be.

Chairman Klemin: Subsection B, third line, make a good faith to notify the decedent's next of kin.

Rep K. Koppelman: You can amend the motion or we can incorporate that within the motion.

Chairman Klemin: Is that acceptable to the moving parties?

Vice Chairman Hatlestad: Yes.

Chairman Klemin: Now we have the subcommittee report as amended.

Rep. Johnson: The difference was, shall notify immediately, is based on A which means the forensic examiner has the information based on that information, shall immediately notify. The attempts to notify or when A was not given to them.

Chairman Klemin: I did not understand it that way it says, when in receipt of the information in subdivision A.

Rep. Johnson: If they have the information and just wait around before they notify the next of kin, your four days was not told right away and I don't think the newspaper association would appreciate that.

Rep K. Koppelman: My intent was to, make a good faith effort to immediately notify.

Rep. Johnson I think a better amendment would be, the notification or attempts to notify the next of kin if contact information is not provided next of kin or authorized representative. We are talking about a case when there are no relatives.

Vice Chairman Hatlestad: Mr. Chairman could we just take your suggested amendment and move it down then, remove after death notification or attempts, then say, the examiner shall make a good faith effort to notify the next of kin of authorized representatives, and it would have to be recorded?

Chairman Klemin: I would like to not change it too much.

Rep K. Koppelman: Rep. Johnson I am not following, you said section B applies when the information has not been given. But it starts with, when in receipt of the information.

Rep. Johnson: When in receipt of the information notify immediately.

Rep K. Koppelman: Is it still possibly they will not be successful in the attempt to notify.

Chairman Klemin: C says after four days of notification or attempts to notify then it becomes public record.

Rep. Ertelt: Could Vice Chairman Hatlestad give clarification on the notification of the autopsy results and report of death?

Vice Chairman Hatlestad: The report of death is the top page of the autopsy including the cause of death. Just the first page, then the autopsy report separate and not public.

Rep. Ertelt: When the next of kin or the authorized representative is contacted they are actually privy to the report of death and not the autopsy?

Vice Chairman Hatlestad: Once they have been notified and told the cause of death and they have requested an autopsy report then it will be mailed to them.

Voice vote carried.

Vice Chairman Hatlestad: Made a do pass as amended motion.

Rep K. Koppelman: Second the motion.

Carried 13 yes, 0 no, 2 absent.

Vice Chairman Hatlestad: Will be the carrier.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2264

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 2 of section 23-01-05.5 of the North Dakota Century Code, relating to providing notification of the report of death to the next of kin or authorized representative of the deceased.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 23-01-05.5 of the North Dakota Century Code is amended and reenacted as follows:

2. An autopsy report and any working papers and notes relating to an autopsy report are confidential and may be disclosed only as permitted by this section. The report of death is a public record subject to disclosure under section 44-04-18 as follows:
 - a. The next of kin or authorized representative requesting the autopsy results is responsible for providing to the state forensic examiner or the examiner's designee satisfactory proof of relationship to the deceased and contact information for notification of the autopsy results.
 - b. When in receipt of the information in subdivision a, the state forensic examiner, examiner's designee, county coroner, or pathologist who performed the autopsy shall notify immediately the decedent's next of kin or authorized representative of the availability of the report of death. The notification or attempts to notify the next of kin or authorized representative must be recorded and must precede any public disclosure of the report of death.
 - c. The report of death becomes a public record four days following the notification of or attempts to notify the next of kin or authorized representative, whether verbal or written. If no next of kin or authorized representative can be found, the report of death may be disclosed."

Renumber accordingly

3/17/17 DP

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2264

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 2 of section 23-01-05.5 of the North Dakota Century Code, relating to providing notification of the report of death to the next of kin or authorized representative of the deceased.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 23-01-05.5 of the North Dakota Century Code is amended and reenacted as follows:

2. An autopsy report and any working papers and notes relating to an autopsy report are confidential and may be disclosed only as permitted by this section. The report of death is a public record subject to disclosure under section 44-04-18 as follows:
 - a. The next of kin or authorized representative requesting the autopsy results is responsible for providing to the state forensic examiner or the examiner's designee satisfactory proof of relationship to the deceased and contact information for notification of the autopsy results.
 - b. When in receipt of the information in subdivision a, the state forensic examiner, examiner's designee, county coroner, or pathologist who performed the autopsy shall make a good faith effort to immediately notify the decedent's next of kin or authorized representative of the availability of the report of death. The notification or attempts to notify the next of kin or authorized representative must be recorded and must precede any public disclosure of the report of death.
 - c. The report of death becomes a public record four days following the notification of or attempts to notify the next of kin or authorized representative, whether verbal or written. If no next of kin or authorized representative can be found, the report of death may be disclosed."

Renumber accordingly

Date: 3-13-17
Roll Call Vote: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2264

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: Time frame on release of report of death to news media

- Recommendation: Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Rep. Johnson Seconded By Rep. Guggisberg

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin			Rep. Guggisberg	1	
Vice Chairman Hatlestad	1		Rep. Hanson		
Rep. Beadle					
Rep. Becker					
Rep. Ertelt					
Rep. Johnson	1				
Rep. Koppelman					
Rep. Longmuir					
Rep. Maragos					
Rep. Pyle					
Rep. Simons					
Rep. Toman					
Rep. Zubke					

Total (Yes) 3 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-17-17
Roll Call Vote: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2264

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 17.0338.0400a

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Rep. Hatlestad Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin			Rep. Guggisberg		
Vice Chairman Hatlestad			Rep. Hanson		
Rep. Beadle					
Rep. Becker					
Rep. Ertelt					
Rep. Johnson					
Rep. Koppelman					
Rep. Longmuir					
Rep. Maragos					
Rep. Pyle					
Rep. Simons					
Rep. Toman					
Rep. Zubke					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

voice vote carried

Date: 3-17-17
 Roll Call Vote: 2

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2264**

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Rep. Hatlestad Seconded By Rep. K. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin	/		Rep. Guggisberg	/	
Vice Chairman Hatlestad	/		Rep. Hanson	/	
Rep. Beadle	/				
Rep. Becker	/				
Rep. Ertelt	/				
Rep. Johnson	/				
Rep. Koppelman	/				
Rep. Longmuir	/				
Rep. Maragos	/				
Rep. Pyle	/				
Rep. Simons	/				
Rep. Toman	/				
Rep. Zubke	/				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep. Hatlestad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2264, as engrossed: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2264 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 2 of section 23-01-05.5 of the North Dakota Century Code, relating to providing notification of the report of death to the next of kin or authorized representative of the deceased.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 23-01-05.5 of the North Dakota Century Code is amended and reenacted as follows:

2. An autopsy report and any working papers and notes relating to an autopsy report are confidential and may be disclosed only as permitted by this section. The report of death is a public record subject to disclosure under section 44-04-18 as follows:
 - a. The next of kin or authorized representative requesting the autopsy results is responsible for providing to the state forensic examiner or the examiner's designee satisfactory proof of relationship to the deceased and contact information for notification of the autopsy results.
 - b. When in receipt of the information in subdivision a, the state forensic examiner, examiner's designee, county coroner, or pathologist who performed the autopsy shall make a good faith effort to immediately notify the decedent's next of kin or authorized representative of the availability of the report of death. The notification or attempts to notify the next of kin or authorized representative must be recorded and must precede any public disclosure of the report of death.
 - c. The report of death becomes a public record four days following the notification of or attempts to notify the next of kin or authorized representative, whether verbal or written. If no next of kin or authorized representative can be found, the report of death may be disclosed."

Renumber accordingly

2017 CONFERENCE COMMITTEE

SB 2264

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2264
4/4/2017
Job Number 29931

Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to providing notification of the report of death to the next of kin of the deceased.

Minutes:

1 Attachment

Chairman Larsen: Called the conference committee to order. All members were present.

Representative Hatlestad: Summarized the changes the House made. It's a little reorganization, you had attempts to contact. The major change we required the next of kin or their representative had to inform examiner of location to send information. We said the examiner had 4 days from time he began notification process, then it would become public knowledge; the Senate version had 14 days. We reduced the number of days involved. The news media thought it was too long, we conferred with the parents, they felt that 4 days would be sufficient time to notify the family. We put in that if there was no next of kin, or no authorized representative that could be found, then it could be disclosed immediately.

Chairman Larsen: That is what I had heard from Senator Lee. Then there was this amendment Jack Macdonald and Kirby Krueger had discussed. If he could explain it. It melds the intentions.

Kirby Krueger, ND DoH: Presented amendment, **please see attachment #1**. Our attorneys thought that the language could be clarified, they met with Mr. Macdonald. As the bill stands, our concern was operationally could we do this, for the majority of cases we get, we don't get a lot of information of next of kin. A lot of times there isn't any information. Only 20-25% of families give enough information to be notified. Contacting within 4 days shouldn't be a problem, when the families provide contact data, it's usually accurate.

Representative Johnson: Do you see it working like this; the next of kin notify you of their contact information, you already have that so there's no time lag there, I'm confused by this first part. It's public right away, except when the authorized representative or next of kin has requested; when do they do that?

Kirby Krueger: Generally speaking, they make those requests anytime, before the results are final, happen shortly after, it can be months later. It varies quite a bit.

Representative Johnson: In your estimate, it's not public for 4 days, but here it says its public when completed.

Kirby Krueger: This is how I interpret this from operational point of view, how we would implement this law, when Dr. Massello finalizes the report of death, if we know the family wants it, we have 4 days to deliver it to them, and it's not public during those 4 days. If he finalizes a report and we have no request from family, we will not make an attempt to notify, and it becomes public right away. I also interpret it this way, if we finalize a death and we have no request from the public and we get the request from the family, now we have the 4-day period to keep that private until we notify the family. If Dr. Massello finalizes a death today, and we have no request from the public, if the family comes in tomorrow, we would then apply the law, now we have 4 days of confidentiality.

Representative Hatlestad: On the back of page 2 on c, we disagree. The report of death becomes public 4 days following the notification or attempt, on the 3rd attempt, then it seems to me that the 4 days starts. Am I reading that wrong?

Kirby Krueger: I think I agree with you, it's also after the attempts, it doesn't change that last condition for us.

Representative Hatlestad: It might for the parents, if you start calling on Monday and get them on Wednesday, you've used 3 days, the next day it's public. That was not what we intended. We wanted to give the family 4 days from notification.

Sandra DePountis, Assistant Attorney General, Open Record and Meeting Portfolio: You are correct, the clock starts to run either after they're notified or after 3 attempts have been made, then there's 4 days.

Representative Hatlestad: Is that what it says?

Sandra DePountis: Yes, they get 4 days after they get notified or after 3 attempts. That's when that 4 days starts. If it takes them 3 days to notify them, then they're going to have 7 days total.

Representative Johnson: When will the next of kin or representatives be told that they need to request this to forgo the publication?

Kirby Krueger: We used to, when we sent the body to the funeral home, attach a pamphlet that outlined what had happened, if they wanted more information, instructed them on how to get it. It didn't seem to influence, so we stopped, but we talked about re-implementing that process so at least the funeral home could pass that on to the family members.

Representative Johnson: But the way I read this that it's public, 'boom', but at if at 'boom', you do not have a request, you give it to the media.

Kirby Krueger: They could, yes.

Representative Johnson: That's contrary to the intent of the bill, I believe.

Senator Heckaman: I think we're in worse place than we were before, it's more confusing to everybody. It says 'the report of death is a public record subject to disclosure when it is completed', and then there's a however, it seems to me, that that part shouldn't be there. It seems that media has first access if they want it.

Kirby Krueger: I agree we're trying to make the situation workable.

Representative Hatlestad: What does it say under section 44-08-18?

Mr. Krueger began looking it up.

V-Chair Larsen: I think the intention was to hold back the press. Gave an example. The information still goes to the family first, it might still sting that it's going to go out to the news, but they have the right to have that information. 14 days or 4 days, the intention is that the family comes first. The integrity of the bill is still there.

Representative Johnson: I beg to differ. It's public right away, if at that time when they finish, it's public, and the only thing that bars them from releasing that to the press is that the family has already requested the report. How does that family know that they should request that? It's not the funeral director's job to tell them, it's not the medical examiner.

V-Chair Larsen: Do we want to go to the original 14 day part of the bill?

Representative Johnson: I preferred 8 days, I think if we took out this language under subsection 2 of section 1 and leave on the 3rd attempt, the 3rd attempt language is pretty good. Then we go back to a 4-day period, without putting a burden on the family to be sure to request the autopsy report to stave off the media.

V-Chair Larsen: What was the report that the media got. The family was telling us they received the actual, and then they got the first report that they said was a drug overdose.

Representative Hatlestad: What the news requested was the report of death, which is the 1st page of autopsy; the family got the whole thing. That report of death contains cause of death.

Chairman Larsen: The family didn't get the 1st report yet. That's what this is addressing.

Representative Hatlestad: They got a call from a reporter telling them that they were going to publish this; we were trying to make sure the next of kin had the report and had 4 days to notify the family before it became public. What did you find in 44-04-18?

Kirby Krueger: 44-04-18 addresses autopsy images. Listed examples.

Senator Clemens: Would it make sense in this draft, the main thing we're looking at is way at the end of this bill. If we move that to the front to make it a little clearer, you'd mentioned

8 days, but maybe 5 working days, I think it would help to have everything very clear at the beginning. Then we could list a few conditions.

Senator Heckaman: Right now, the 1st 3 lines of this draft are current law, right?

Kirby Krueger: Yes, those talk about what's already in statute.

Senator Heckaman: I have an email from you, saying 'we felt one of the most important aspects in protecting families is to keep the report of death confidential for 14 days for a couple of reasons. It allows the family time to make requests, and for those requests to be filled and delivered; it could take several days by mail. It allows time for the normal death certificate process to take place, this is important because right now most families learn about causes and manner of death through the death certificate and usually work with their funeral director to obtain those certificates'. You're saying now that 14 days is too long?

Kirby Krueger: We proposed the 14 in our original, when we testified in the Senate. We're comfortable with that because 80% of the families are going to learn about cause of death through the death certificate process.

Senator Heckaman: Our main concern is when should this be public. I agree with Rep. Johnson, it's cloudy, who tells the family to do it? We need to clear that up.

Representative Hatlestad: If we go with 14 days, news media is going to be unhappy. I agree we need to find some way to guarantee the next of kin knows they have to request. You don't just send it out, it has to be requested.

Kirby Krueger: That's correct, if we don't have any information on who to send it to, we don't know who to send it to. Even if there's a name listed, we don't know if they're allowed to receive that. We still have to verify the process.

Senator Heckaman: The way the bill came to the House, is the only objection 14 days? If we could negotiate on the 14 days, look at overnight and schedule another meeting?

Representative Hatlestad: I would agree to that. I think there are 2 issues; how do the parents find out they have to request it?

Representative Johnson: Now I see that part of the problem is sub subsection a, in that we've already provided the authorized representative requested the autopsy results. I think that's confusing, and may have to be reworked. I see why they have the 'however'. I think Senator Heckaman is right, give this a once over and come back.

Chairman Larsen: For clarification, the 14 days and how we notify. And the notification has never been in there, so we're adding now.

Kirby Krueger: There is a notification process in place – online.

Senator Heckaman: Are all next of kin notified by funeral home that they need to request this?

Kirby Krueger: To be honest, if the funeral home doesn't tell them, they don't know.

Representative Hatlestad: Your report could be public before the body goes to the funeral home.

Kirby Krueger: It becomes public when he signs.

Chairman Larsen: If the bill passes with an 8 day grace period, when the news calls, then it's his job to say we have to contact the family.

Kirby Krueger: I need an interpretation on that. If the family hasn't requested, it and we've gone beyond the 4 day period. Its public no matter what, one of the 1st question, couldn't we address this in a policy? The problem the way the law reads, it's an open record, single page, no obstruction, once it's requested there's no reason to withhold it.

Representative Guggisberg: What if we said after the deceased next of kin is notified or 3 attempts, and then 4 days or whatever, they're either notified or we've made the 3 attempts, and then there's 4-5 days, would that work?

Representative Hatlestad: If a next of kind does not request the autopsy, you don't call?

Kirby Krueger: That's one of the challenges. That's correct, we don't make any attempt. Sometimes these families don't want to know.

Chairman Larsen: I like the idea of saying 8 days, then the press can have it. I don't think it has to be instantaneous to sell a newspaper.

Senator Heckaman: Maybe we need to write in funeral homes need to notify the family that this is an option.

Chairman Larsen: I don't want to add stuff to the funeral homes.

Representative Hatlestad: By the time the funeral home gets the body, it could be 5 days before they see the parents.

Chairman Larsen: We've got a 14-day issue and a notification issue. Closed the meeting.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2264
4/6/2017
Job Number 29958

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to providing notification of the report of death to the next of kin of the deceased.

Minutes:

1 attachment

Chairman Larsen: Brought the conference committee hearing to order, all members were present: Senator Larsen, Senator Clemens, Senator Heckaman; Representative Hatlestad, Representative Johnson, and Representative Guggisberg.

Chairman Larsen: When we left there was a time frame, and who and how people are going to get notified, I think we've got some of that ironed out; there is the days from 4-14 days, Rep. Johnson suggested 8, and Sen. Heckaman has a draft, if we can get copies, see what we think of that. **Please see attachment #1.**

Senator Heckaman: If someone from the Attorney General's office could come explain them.

Sandy DePountis, AG's Office, Open Record and Meeting Portfolio: We took your ideas and put them in this amendment. The Report of Death will be subject to disclosure within 8 days. No matter if they request it, if they don't, it's open in 8 days. If the family does want it, we thought that 8 days will be long enough that information will get to the family, if they want this Report of Death in this 8 day timeline, they can do that, they have to contact the people doing the autopsy.

Representative Hatlestad: As a family member, do I request the Report of Death or do I request the autopsy?

Sandy DePountis: The Report of Death is what this is talking about, the family can request the autopsy, but there is a separate way to go about doing that. The autopsy is confidential, only the next of kin can go and get that autopsy. The Report of Death is the front page of that autopsy, that is subject to disclosure within 8 days. The next of kin can get the report of death and the autopsy during that time.

Representative Hatlestad: Wouldn't the family be requesting the autopsy report, not the report of death?

Kirby Krueger, NDDoH, Medical Services Section: Generally speaking, they are requesting the full autopsy report, and because the Report of Death is the front page of the autopsy, that automatically gets sent along with all of the autopsy findings.

Representative Hatlestad: This isn't what we want then, when the next of kin requests, we're looking at the autopsy report and not the Report of Death.

Chairman Larsen: The autopsy report is confidential, nobody can get that, the press can't get that. We don't want them to get the first sheet of paper.

Senator Heckaman: I think he's right in what's in the draft portion, this one talks about report of death, the draft says relating to the autopsy report are confidential. I think we're trying to mix two things; we've got to keep them separate.

Kirby Krueger: The whole autopsy report is confidential, that's addressed in a different part of statute, this amendment should only address Report of Death and what can be released.

Representative Johnson: To be on record, by the Report of Death becomes a public record 8 days after the report is finalized in no way means that an autopsy for fee report of death is also public, those are confidential. Is that correct?

Sandra DePountis: That is correct.

Senator Heckaman: I move that the House recede and amend as follows: Public disclosure of Report of Death will become public 8 days after the report is finalized.

Representative Johnson: Second.

A roll call vote was taken.

Motion passes 6-0-0.

Chairman Larsen: closed hearing.

CM
4/6/17

April 6, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2264

That the House recede from its amendments as printed on pages 924 and 925 of the Senate Journal and page 1050 of the House Journal and that Engrossed Senate Bill No. 2264 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 2 of section 23-01-05.5 of the North Dakota Century Code, relating to providing notification of the report of death to the next of kin or authorized representative of the deceased.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 23-01-05.5 of the North Dakota Century Code is amended and reenacted as follows:

2. An autopsy report and any working papers and notes relating to an autopsy report are confidential and may be disclosed only as permitted by this section. The report of death is ~~a public record~~ subject to disclosure ~~under section 44-04-18~~ as follows:
 - a. The next of kin or authorized representative requesting the report of death is responsible for providing to the state forensic examiner or the examiner's designee satisfactory proof of relationship to the deceased and contact information for notification of the report of death.
 - b. When in receipt of the information in subdivision a, the state forensic examiner, examiner's designee, county coroner, or pathologist who performed the autopsy shall make a good faith effort to immediately notify the decedent's next of kin or authorized representative of the availability of the report of death. The notification or attempts to notify the next of kin or authorized representative must be recorded and must precede any public disclosure of the report of death.
 - c. The report of death becomes a public record eight days after the report of death is finalized."

Renumber accordingly

**2017 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. 2264 as (re) engrossed

Senate Human Services Committee

- Action Taken**
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Sen. Heckaman Seconded by: Rep. Johnson

Senators	4/4	4/6	Yes	No	Representatives	4/4	4/6	Yes	No
Senator Larsen	X	X	X		Rep. Hatlestad	X	X	X	
Senator Clemens	X	X	X		Rep. Johnson	X	X	X	
Senator Heckaman	X	X	X		Rep. Guggisberg	X	X	X	
Total Senate Vote			3		Total Rep. Vote			3	

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Sen. Larsen House Carrier Rep. Hatlestad

LC Number 17.0338 . 04004 of amendment

LC Number 06000 . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Public disclosure of Report of Death will occur after 8 days.

Insert LC: 17.0338.04004
Senate Carrier: Larsen
House Carrier: Hatlestad

REPORT OF CONFERENCE COMMITTEE

SB 2264, as engrossed: Your conference committee (Sens. O. Larsen, Clemens, Heckaman and Reps. Hatlestad, M. Johnson, Guggisberg) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 924-925, adopt amendments as follows, and place SB 2264 on the Seventh order:

That the House recede from its amendments as printed on pages 924 and 925 of the Senate Journal and page 1050 of the House Journal and that Engrossed Senate Bill No. 2264 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 2 of section 23-01-05.5 of the North Dakota Century Code, relating to providing notification of the report of death to the next of kin or authorized representative of the deceased.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 23-01-05.5 of the North Dakota Century Code is amended and reenacted as follows:

2. An autopsy report and any working papers and notes relating to an autopsy report are confidential and may be disclosed only as permitted by this section. ~~The report of death is a public record subject to disclosure under section 44-04-18 as follows:~~
 - a. The next of kin or authorized representative requesting the report of death is responsible for providing to the state forensic examiner or the examiner's designee satisfactory proof of relationship to the deceased and contact information for notification of the report of death.
 - b. When in receipt of the information in subdivision a, the state forensic examiner, examiner's designee, county coroner, or pathologist who performed the autopsy shall make a good faith effort to immediately notify the decedent's next of kin or authorized representative of the availability of the report of death. The notification or attempts to notify the next of kin or authorized representative must be recorded and must precede any public disclosure of the report of death.
 - c. The report of death becomes a public record eight days after the report of death is finalized."

Renumber accordingly

Engrossed SB 2264 was placed on the Seventh order of business on the calendar.

2017 TESTIMONY

SB 2264

Senate Human Services Committee

Honorable Senator Judy Lee, Chair

Senate Bill 2264

Testimony by Senator Brad Bekkedahl

Madam Chair and Committee Members,

Senate Bill 2264 is an attempt to correct a tragic sequence of events, that has pointed out a deficiency in next of kin notification processes to inform families of a report of death details before press or other public access. I am sure this is a case of unintended consequences with current statute procedures, and appreciate the family in my District bringing it to our attention for Legislative relief. Suffice to say, a case occurred wherein a press reporter had the report of death information provided to him through electronic transmission, before the family involved was notified. His call to the family for comment on the report of death before they had seen it created substantial family discomfort, as I am sure you could imagine.

The consideration and drafting of this bill involved the family, their attorney, the North Dakota Newspaper Association representatives, and Legislative Council. There will be further agency information provided today from the North Dakota Department of Health that may present better operative options to correct this issue than this bill allows, so I defer to the Committee to improve on this attempt it sees fit, while still preserving the corrective intent of the bill.

I thank the Committee for its consideration of this delicate issue today. I will stand for any questions, and following that, would like to introduce Randi Jangula, mother of the deceased Tyler Jangula, to further explain the situation and Tyler's family's attempt to prevent others from having this occur while in a similar situation.

This letter is focused on changing the way autopsy results are revealed to anyone other than the police or family of the deceased, specifically the media.

The past year and a half I have watched some wonderful people suffer immeasurably from the loss of their son and brother. It has been a very difficult time for them, their extended family, and the innumerable amount of friends Tyler has. My husband and Tyler have been friends since they were young kids and I grew up hanging out with the Jangulas so we very much consider them family. When Tyler passed last year, it was devastating. He was always so much fun to be around, the life of the party really. He always wore a smile that lit up his face and was ready to give anyone a big bear hug. When we heard he passed, we were shocked. How could it be that a 28 year old just didn't wake up? We rushed over to the Jangula house to give hugs and just be there for them. There were so many people there that week in and out praying with them, telling 'Tyler' stories, giving hugs, etc. Rheanda told me multiple times that she didn't want to know the cause of his death, but if they ever changed their mind they would get the autopsy results and read it as a family. You can imagine the shock she felt when a reporter from the Fargo Forum called her to get a statement after the autopsy was released. As she didn't know the results had been released, she was devastated when the media was calling for her statement and telling her what the report said. After they pleaded with the Forum multiple times not to release the results, the Forum decided to do it anyway, much to the disgust of the family. We could not believe that they could even do that. How is it that they could get the results before the Williston Police Department and Tyler's family? We watched helplessly as the Jangulas dealt with the fallout of the report that they had not even wanted to read at that time. To us and the people that care about Tyler it did not matter what the report said, but it did matter that the media took the report and released it for everyone to read and decipher for themselves. After the Forum released the

2264

#2

1/24

article, my Facebook feed was filled with people sharing the results. I was disgusted by those that continued to share the article, but mostly upset that they could write this knowing it was against the family's wishes. We fully believe there should be a law in place that states autopsy results cannot be released to anyone besides the police and family of the deceased. It is our wish that a law would pass that would prevent another family or friend from hearing results of an autopsy this way.

Sam & Brandon Blomberg

11.16.16

2264

2

1/24

To whom it may concern:

I am writing this letter on the behalf of the Jangula family, who have suffered the unexpected loss of their son and brother, Tyler, on February 1st, 2015. This awful news shocked our small community of Williston, however, after his passing it became very apparent how much of an impact Tyler had made not only in his hometown, but across the state and country as a NDSU Bison football player and an outstanding friend/person. I remember seeing headlines of various newspapers and Tyler would be resting on the shoulders of his teammates celebrating a touchdown. The articles talked about him not only as a talented football player but also as the stand-up guy he was both on and off the field.

Although this unfortunate and painful loss will never completely heal, there are certain circumstances that could have prevented additional suffering for the Jangula family. Along with the heart-warming news of remembrance came some cynical news reporters who I believe had crossed the lines. As some of you may know, Tyler's sister, Rheanda, had received a call at her place of work from the Fargo Forum asking her about additional details in Tyler's death and this reporter also began to read off his death report, against her wishes, which was completely heartbreaking for her and unacceptable. The Jangula family had requested this report immediately after the death of Tyler, along with his primary physician and surgeon, and intended to go through it as a family which is understandable. Neither the family nor the medical professionals had received it at this time. So how could this news reporter receive this report before them, just so he/she could make front page news and sell more newspapers? Whoever this individual was from the Fargo Forum is disturbing, but I do realize that there are unfortunately these people in the world- who care more about pressing a family member of the recently deceased for answers in order to increase work status and generate money. That is out of your control and mine; and sure enough, the newspaper had the results plastered all over the front page for everyone to see.

Tyler's death has brought to my attention many things, one of which is just how easily accessible these reports are. Right now, I can go onto the North Dakota Department of Health website and request a death report, lie about my relationship towards that person and it would be sent to me. There is no security check. I could also write a request letter to the coroner's office and they would send the report back to me. What I would like to see changed is who has access to such records and at what length of time should they be released to the public. For example, the family, health care providers, and law enforcement should be the only ones to receive the immediate death report. After a six month period perhaps then they could be accessed by the public. The Public Access to Death Records states:

"The Access to Public Records Act ("APRA") (I.C. § 5-14-3) provides that all records maintained by a public agency are public records, but some may be confidential or disclosable at the discretion of the public agency. All records which do not fall into the exceptions must be made available for public inspection and copying. The APRA is a general statute; any specific statute regarding access to specific records supersedes the APRA. (I.C. 36-2-14) describes the duties of a county coroner (I.C. 16-37)".

2264
#2
1/24

There are no specific time parameters set as to when these records can be released to the general public. The paragraph above simply states that that information must be made available for public record, although some may remain confidential for some time if requested by the public agency- all other records must be made public. I believe that the family should have a right to request confidentiality of the death report of a family member, next-of-kin, through their public agency for a period of time.

So yes, Tyler's case is unique in that he was a well-known individual and people were curious as to the cause of death of someone so young and athletic. Some might think, well that's the only reason his death certificate was requested by anyone other than family- would you request the death report of your elderly neighbor? No. Well I don't think that is necessarily true. Try to imagine losing a relative to a drug overdose or a son or daughter to suicide. When a family loses someone it is very personal, especially in a way that is so delicate. The family may not want anyone to know the cause of death and I believe that the family has a right to withhold the reports under certain provisions, at least for a specific amount of time to allow them to heal. Because there ARE people out there that will try to investigate something that is of no concern to them- especially when there is mystery as to the possible cause. That is just the truth. And hopefully, after time these people will move onto something else. Please consider making death reports only accessible to the family and other pertinent individuals in the case of death, unless otherwise specified by the family for at least a period of six months or greater.

Thank you,

E. Bustad

2264
#2
1/24

To whom it may concern;

We are writing this letter in support of a change to the ND statute regarding the release of a person's death report.

2 years ago on Feb 1st 2015 our family suffered the worst possible tragedy the untimely death of our first born son Tyler Jangula at the age of 28. We were so very fortunate to have the amazing support of family and friends to help us get through this terrible time.

About 3 weeks after Tyler passed just as the scab was trying to form over our hearts the Fargo Forum got his death report and decided that it would make great front page news. Jeff Kolpack from the Forum called Rheanda (our daughter and Tyler's sister) at her place of work and asked her if we had received it yet. (We had not and neither had his primary physician nor his physician who had done his surgeon. Both of whom had put in a request immediately after his death.) Rheanda informed him that we had decided that when we got the report we as a family would sit down and read it. He proceeded to read the report off to her she was devastated! I spent the entire afternoon on the phone with the editor of the paper trying to convince him that this really wasn't front page news. All I kept getting told was how many articles that they had written on Tyler and that people wanted to know. I informed them that if anyone wanted to know what Tyler died from that they certainly could contact me and I would give them all the information but not on the front page of a newspaper! I also asked them if they published everyone's death report that they ran an obituary on and they said to me yes they did!

I guess in all my years in the health field I naively thought that your death report is treated the same as your health records and that that fell under the guidelines of HIPPA. This is not the case. We would like to see something to the effect that the people that would have first access to the death/autopsy report would be medical professionals, law enforcement and then the family. After a period of time possible 6 months it then could be open to the public.

We beg you to consider this change in the Statute allowing a reasonable amount of time which we believe to be at least 6 months to transpire before the public is able to access a person's death report.

Thank you

Randi Jangula



Henry Jangula



2264

2

1/24

To Whom It May Concern,

I am writing in an effort to change the way the death and/or autopsy reports are disclosed in North Dakota. I have witnessed a family close to me, receive a great injustice, when it comes to the loop-hole in the disclosure of such death reports. The family was still mourning the loss of their son, when they shockingly received information from a news reporter about the results of the autopsy and death report. Neither the family, medical personnel, nor law enforcement had received any such information before hearing it from the news media. The fact that anyone is allowed to receive such reports before the family, physicians, or law enforcement is very disturbing. And needs to be stopped. I have read ND Century Code 23-01-05.5 regarding disclosure of Autopsy reports, but there is nothing in place stating who should be notified first. I would like to propose that the stated people in this Century Code be notified first before anyone in the general public is allowed. There should be a waiting period (ex. 6 months) for the necessary representatives to receive the information before it is disclosed to the public. We have HIPPA privacy laws in place; there should also be a privacy law regarding death records. No family should have to experience the loss of a child, but to have experienced the notification from news media and deal with information and misinformation published from death report is completely unacceptable. Let's make sure this never happens to another family.

Sincerely,

Desri Neether

pg. 6

2264
#2
1/24

To whom it may concern,

I am writing to urge you to take action to amend the statute for the release of a death report to only the next of kin, for the privacy and respect of the family.

I have loved Tyler and his family for many years, and I have never seen heartbreak quite like the trauma caused by the frenzy of news reports on Tyler's death. When Tyler died, this close-knit family was broken and shattered by the loss of their son and brother. If you have ever lost someone close to you far too soon in their life, you know the pain and suffering that ensued; if you have not, I hope that you never have to endure that kind of pain. My point is, that pain alone is enough to deal with – rather than the media making a frenzy of it. It was plastered everywhere from the Fargo Forum to MSN.com front page. And why? What benefit was from this except a 'good read' and gossip? Quite frankly, the news of an 'accidental overdose' falsely tarnished his image, caused his family and friends more pain, and promoted unjust gossip.

My heart broke to read those headlines and to hear people talk about Tyler that way. That is not the Tyler that filled our hearts and our arms. That is not the way Tyler would ever want to be remembered. I know that is just not Tyler at all. Tyler filled our lives with love and laughter – there was a reason people drove from near and far to say goodbye to Tyler, he was our hero, he was our friend, and to some of us, he was our true love. I can only speak for myself when I say that receiving the news of Tyler's death shattered my heart, but seeing those headlines sent my mind racing asking questions. No one should have to have those thoughts run in their mind... Overdose is a tainted word. The word 'accidental' tends to be ambiguous when paired with overdose. No family, friend, or acquaintance should have to ask "what could I have done?" No friend or family should have to receive facebook messages, text messages, and phone calls asking if the news about Ty was true. The way Tyler died was the Jangula family's story to tell, not the Fargo Forum, not MSN.com, not mine, and not yours.

One family experiencing this pain is one family too many. Again, I urge you to aid in the amendment of the statute to treat death records as HIPAA, whereas only the family is given the information and at that point they can chose to stay private or share the information. I urge you to consider the pain and unfair gossip the Jangula's experienced and to step up and fight for this change for the Jangula's, for Tyler's life, and for all the other families who have had to experience similar pain.

Sincerely,

Callie A. Wachendorf, MBA

2264
2
1/24

Dear Senator Bekkedahl,

The letter I am writing you is concerning The Fargo Forum and how they handled the publishing of Tyler Jangula's tragic passing. On February 1st, 2015 my family suffered the loss of my brother, Tyler Jangula. He was 28 years old at the time of his unexpected and tragic passing.

Three weeks after my brothers passing, the Forum, somehow, for some reason obtained the death report before we as a family had received or viewed the report. We had not received this information and had neither his primary physician nor his physician who had performed his surgery, both of whom had put in a request immediately after his passing. The reporter (Jeff Kolpack) decided at this time that he should make a phone call to my sister (Rheanda Axtman). Rheanda informed this reporter that we as a family would sit down and read the report when we received it. During this phone call, my sister, Rheanda learned the results of what was in my brothers system during the time of his passing, from a stranger, looking for a story to publish. In this phone call, he also told my sister that they would be publishing this information on the front page of the paper, "Because people want to know". Obviously, my sister Rheanda was completely devastated to this senseless phone call from a stranger. I then received a phone call from my sister informing me of what this stranger had told her, and how she was re-experiencing what had happened all over again. My mother, than spent all afternoon on the phone with the editor of the newspaper, who kept telling my mother that with all of the articles that they had written on Tyler, people wanted to know what had happened to him. The following morning, this senseless information was then published on the front page of the Fargo Forum, before all friends and family were informed. What this did was add more stress and misery to an already overwhelming time for my family.

Appallingly, there are no current privacy protections for autopsy or death reports in the state of North Dakota. We as a state have no regulations regarding who can access this information. Have we not suffered enough with the death of our loved one? I personally believe that there needs to be a statute in place to protect future families from experiencing the same torment that we experienced.

Sincerely,

Logan Jangula

November 16, 2016

2264
#2
1/24

Honorable State Senators and Representatives:

I write this letter as a concerned citizen and friend of Tyler Jangula and his family. As a resident of North Dakota, I would like to express my concerns regarding the unfortunate circumstances regarding the release of Tyler's Death Report. The report was released to the public before his family was notified. I firmly believe, as do many other residents, that the immediate family, medical professionals, and law enforcement should be the first to receive the report.

I cannot imagine a more difficult time in one's family. His family members should have had time to grieve before the news was made public. I agree that the media should inform the public. However, I strongly believe that there is an appropriate time for the release of such information.

The emotions and feelings of the family should be considered. I highly support a change to the North Dakota Century Code.

Respectfully,

Chris T. Mack

2264
2
1124

To whom it may concern,

I am writing this letter in support of changing a statute stating death certificates are public knowledge and can be used for media ratings. My cousin tragically and unexpectedly passed away and we were all beyond devastated. We all thought having to bury a son, a brother, a grandson, a nephew, a cousin, and a friend would be the hardest thing you would have to do. It was the worst believe me, now imagine having to relive that by having a complete stranger tell you what the cause of death was. Having to read it on the front page of the newspaper, having his death be used by the media to sell papers. It's beyond disgusting and devastating to me to know this happened. Now picture this happening in your life, how do you think you would feel? Would you want your mother to read this or have a stranger call her and read your death certificate to her? Imagine you as a parent, sibling, cousin, or friend having this happen to you. I pray that this kind of devastation never happens to you or anyone you know. That's why I'm writing this letter in support of a change. Death certificates should not be public knowledge before its family knowledge. I believe that if after a family finds out their loved ones cause of death if they want to share this information they can. But until they are ready this information should be kept private. It's the hardest time in any family life and to put more devastation on them and expect them to be ok is not ok. Please make a change in the statute and know that you will be changing the lives of many family members.

Thank you

Ashley May

2264
2
1/24

To whom it may concern:

I am writing to share my concerns about the current process in place when reporting an autopsy. I was always under the assumption that a person's autopsy was like any other health record as far as the HIPPA guidelines and was only reported to health care officials , law enforcement and of course the family.

A very good friend of ours passed away and we were shocked to learn the news media was able to obtain his medical records and report his cause of death before his medical doctors, surgeon and family members received a copy of his autopsy. The medical professionals had requested a copy but had not received it yet either. For a family to find out from a news reporter how their loved one died before they were able to obtain this report is wrong on so many levels! This family was still in the grieving process and it was like they had to live this nightmare all over again. Only publicly instead of being able to read the autopsy together as a family in private. The heartache of having to deal with this at this time was unbearable!

I would like to see the statute amended so law enforcement, medical personnel and family members be informed of the manner of death before anyone else is able to receive a copy of the autopsy. I would like to see a 6 month waiting period until outside sources are informed.

Claudette Neether

2264
#2
1/24

Senator Bekkedahl,

My brother-in-law, Tyler, passing away unexpectedly was terrible. As a family, we were shocked and devastated. Watching my husband and his family live through their loss has been the most difficult thing that I have ever witnessed. I remember feeling numb in the days immediately following his passing. I remember watching the strongest people I know being broken down and having to question why and how this could have happened. Holding my husband as he broke down into tears after viewing his brother's body. Watching my father-in-law attempt to carry on while at a complete loss. Holding up my mother-in-law as she nearly collapsed before entering the church at his funeral. Hearing, from my pregnant sister-in-law, that a reporter from the Forum had called her days after Tyler's passing and disclosed his cause of death before we had the chance to open the letter from the coroner as a family.

Losing a family member is painful, earth-shattering, and unimaginably difficult. I am surprised that there are so few laws in place to protect the victims of this type of tragic circumstance. I am hopeful that you, Senator Bekkedahl, will do everything in your power to enact this statute to protect families in the future who are already dealing with an unimaginable amount of pain. I am sure that no person would intentionally add to this suffering; by enacting Tyler's statute you will bring awareness to an issue that most people do not typically consider. How we, as a community, can bring a small measure of comfort to those people suffering from the ultimate pain-losing a person they love. We can protect the privacy of the families who grieve. We can honor the memory of those who we have lost. We can enact Tyler's statute to limit public access to autopsy reports.

Thank you for hearing our story,

Ala Martin

2264
#2
1/24

To Whom It May Concern:

I have received an email from the family of Tyler Jangula and it talks about the Statute change for death records in the State of North Dakota. I, myself, do have to agree with everything they are looking into for a change of who can acquire the death record. I am a funeral director in the state of Nebraska and attended NDSU with Tyler. Being in the field I am in, I see more times than none how people (families) can be hurt by the media or other sources because of their ability to access such information. The first right in my opinion is to allow the family and only the family to know the causes of death and therefore have a process which allows them to do so before any sort of media/public entity can acquire these records. The cope with death is something most of us have endured and possibly have went through Kubler-Ross' Stages of Grief, but in some cases I do believe as a healing process, finding facts out as a family before any person(s) or media source is justifiable. It allows you time to cope with the outcome of what is on that record and how you are going to deal with the process of it moving forward in your life as an individual and a family.

Sincerely,

Mike Brower

2264
#2
1/24

Dear Representative,

I am writing to you because of what I have personally experienced with how the death report was released of one of my close friends – Tyler Jangula. It was shocking to me to learn that someone outside the immediate family and physicians would be given access to something that is so personal and intimate as a death report. After watching Tyler's family and all of our friends go through this tragic event and grieving alongside with them, I couldn't believe that I found out how my friend and teammate passed away was through a local newspaper before I had time to reach out directly the Jangula family.

I am writing as a concerned citizen and hoping that my voice will be heard to change this statute of the duration of how long someone from outside the immediate family, physicians, and law enforcement would be given access to the death report. I would like to see a timeline of at least 6 months before a death record is open to the public and allow the families to decide if they would like to release the records earlier.

I hope that the State will recognize that the current statute in place does not give time for families to grieve as they go through these extremely difficult times. As citizens, we rely on the State to protect our individual rights and the way this statute is currently written, this is not protecting anyone and is a violation of an individual's privacy.

Thank you for your time in hearing my concern and thank you in advance to addressing and making the appropriate changes with this statute.

Regards,

John Majeski

2264
#2
1/24

To whom it may concern;

It was my third day back at work as a Respiratory Therapist when I got the call from Jeff Kopack who is a Fargo forum reporter. Jeff started the conversation off with asking me if I had received Tyler's autopsy results yet. I stated that we had not and we decided that as a family when we do receive them we were not ready to go over them yet. When we were ready we were going to have our Family Dr. with us to explain any questions we had. Jeff proceeded to state "Well we received the autopsy today." When he said that my heart began to have that chest pain that had become so familiar the past couple of weeks. He then asked me if I wanted to hear the results. I stated "NO!" Jeff then told me that Tyler had died from an accidental overdose and if I would like to comment for the article they would be writing for the paper.

Not just my older brother Tyler but everybody deserves the dignity and respect to not have their health information in the newspaper and online. I don't want another person to have to go through what I went through when I received that phone call from Jeff Kopack. Where did my brother's health rights go? Instantly my thought as a healthcare professional how does the media get the results before the police and his own Drs.? Who had both put in a request to get Tyler's results as soon as they were available? HIPAA is the #1 rule in healthcare and should proceed with you even after you have passed.

I am not asking that the media never gets the results of the autopsy. All I am asking is that the results get to the proper people first. The family, healthcare workers and police officers should be the first people to be informed of the results. Not the media so they can go and write one more article on this person. I would like to see a 6 month grace period after the individual as died before the media can get ahold of the autopsy.

Thank you,

Rheanda Jangula-Axtman

2264
#2
1/24

October 22, 2016

Dear Senator Bekkedahl,

On Feb 1st, 2015 my family suffered the loss of my cousin Tyler Jangula. He was 28 years old at the time of his unexpected and accidental passing. Tyler was an exemplarily life-long North Dakotan and a well known athlete. Due to this, the family was blessed with amazing support from the community during this very difficult time. Unfortunately, there was also much publicity regarding his death and his cause of death. A reporter obtained Tyler's death report, before the family, and contacted the family for comments. My cousin Rheanda learned the results of her brother's autopsy from a stranger, a reporter looking for a story, and was completely devastated to be told in this way. This information was then on the front page of a newspaper (despite my aunt's pleading for it not to be) and posted online before all family was even informed. This just added another layer of stress and heartbreak to an already devastating time.

Since you are a medical professional familiar with patient privacy issues, you may assume that something as personal as an autopsy or death report would be part of someone's medical records or protected by HIPAA. Or at the very least, there would be some sort of regulation regarding who has access to this information. Unfortunately, in North Dakota no such regulation exists.

I believe that this needs to be addressed so no other family has to suffer the way my family did. The family is currently working with an attorney to write a proposal for necessary changes to the current statute. I hope that you remember our family when you review this and that we can count on your support regarding this very important issue.

Sincerely,

Jesse Jangula, OD

2264
#2
1/24

November 1st, 2016

Dear Senator Bekkedahl,

On Feb 1st, 2015 our family suffered the sudden and unexpected loss of our nephew, Tyler Jangula. Tyler was a well-known athlete and life-long North Dakotan. Because of this, our family was blessed with amazing support from the community during this very difficult time. Unfortunately, there was also much publicity regarding his death and his cause of death. A reporter obtained Tyler's death report (before our family did) and contacted our family for comments. Our niece Rheanda learned the results of her brother's autopsy from a stranger, a reporter looking for a story, and was completely devastated to be told in this way. This information was then on the front page of a newspaper (despite our sister-in-law begging for it not to be) and posted online before all family was even informed. This just added another layer of stress and heartbreak to an already devastating time.

Shockingly, there is currently no privacy protection for families regarding autopsy or death reports. In North Dakota, we have no regulation regarding who can access this information. Many other states have restrictions in place limiting the information, which would have helped protect our family's privacy and wishes after Tyler's passing.

We believe that this needs to be addressed so no other family has to suffer the way we did. We are currently working with an attorney to write a proposal for necessary changes to the current statute. We hope that you remember our family when you review this and that we can count on your support regarding this very important issue.

Sincerely,



James and Diana Jangula

2264
#2
1/24

October 29, 2016

Dear Senator Bekkedahl,

On Feb 1st, 2015, my family suffered the loss of my cousin, Tyler Jangula. He was 28 years old at the time of his unexpected and accidental death. Tyler was an exemplarily life-long North Dakotan and a well-known athlete. Due to this, the family was blessed with amazing support from the community during this very difficult time. In addition, because of him being well known in the state, there was a lot of publicity regarding his remarkable athletics and his unfortunate, unexpected death. Three weeks after Tyler's death, a reporter contacted the family for comments regarding Tyler's cause of death. This reporter had obtained Tyler's death report, before the family had received or viewed the report. During this phone call, my cousin, Rheanda learned the results of her brother's autopsy from a stranger, a reporter looking for a story. Rheanda was completely devastated to the news and to be told in this uncompassionate way. The following morning, this information was then on the front page of newspapers (despite my aunt's pleading for it not to be) and posted online before all family and friends were even informed. This added another layer of stress and heartbreak to an already devastating time for family and friends.

Since you are a medical professional familiar with patient privacy issues, you may assume that something as personal as an autopsy or death report would be part of someone's medical records and protected by HIPAA. Or at the very least, there would be some sort of regulation regarding who have access to this information or the time frame in which it is available to be viewed by the public. Unfortunately, in North Dakota no such regulation exists.

I believe that this needs to be addressed so that no other family would have to suffer the way my family did. The family is currently working with an attorney to write a proposal for necessary changes to the current statute. I hope that you remember our family when you review this and that we can count on your support regarding this very important issue.

Sincerely,



Jennifer and Ryan Dietz



2264

#2

1/24

November 1, 2016

To whom it may concern:

I am writing in support of a statute change that would lengthen the time before the release of an autopsy report to the public and press.

When tragedies occur resulting in death it is primarily the family who carry the burden of suffering. To lessen, somewhat, their loss, is the reason that I write in support of such a request.

Robert W. Kemp formerly of Williston, ND
1054 Avenida Sonoma
Lady Lake, FL 32159

2264
#2
1/24

Randi Jangula

From: renste@paulbunyan.net
Sent: Thursday, October 20, 2016 5:58 PM
To: Randi Jangula
Subject: Re: Tyler Jangula Statute Change

Follow Up Flag: Follow up
Flag Status: Completed

I watched and grieved with my sister and her family when they lost their son it was the hardest thing to do or so I thought but a few weeks later my sister called me informing me of what the Fargo Forum was intending to do, as they had gotten a copy of their sons death report. This is devastating to a family that is grieving already and for someone else to be able to receive this information before the family is horribly wrong. Please pass the Tyler Jangula Statute so other families do not have to go thru what my sister and her family did.

Sincerely

Rena May
Bemidj, Minnesota

2264
#2
1/24

October 27, 2016

Senator Brad Bekkedahl
North Dakota Senate
Bismarck ND

Dear Senator Bekkedahl,

I am writing to express my concern about current law in ND. Last year a close friend and youthful Tyler Jangula tragically died suddenly. Perhaps because of his fame as a former NDSU football player and NFL recruit his passing was noticed widely. Sadly, the Forum of Fargo chose to pursue and publish information about his passing in haste that showed little sensitivity for the feelings of his family and friends in the immediate aftermath.

As a result, we have discovered that state law allows immediate public access to death certificates. In the case of Tyler, the Forum obtained the report before Tyler's family or physician. They phoned Tyler's sister and read the report to her over the phone before the family even had the chance to read it together in privacy. You can imagine how this contributed to their consternation in a time of grief over the tragic sudden loss of a brother, son and friend.

I support new legislation that would at least establish some level of privacy, such as already is in place with FERPA and HIPPA, for death certificates so that no families in the future need to suffer the pain endured by the Jangula family last year. I hope that you will be able to work with legislative colleagues to address this concern during the upcoming ND legislative session.

Best regards,



Bill Martin

William O. Martin
2413 Elm St N
Fargo ND 58102-2105
PHONE: 701-271-8119
EMAIL: William.martin@ndsu.edu

October 31, 2016

2264
#2
1/24

To Whom It May Concern:

Currently in the state of ND the statute allows anyone to have access to any individual's death report. The death report often delineates the cause of death. It is in essence a condensed version of the autopsy report. Yet to receive an autopsy report one must send in a written request which most people do not realize.

The Jangula family experienced the worst in relation to this statute when their son Tyler died. I am sure they will explain what transpired within their letters – so I will not repeat that information. What I want to express is the pain this situation created for this family. As a friend of the family, I was with them trying to support them through the worse experience a parent can ever go through – the death of a child. And to watch them crushed again at the words of a heartless reporter and newspaper (Fargo Forum) was heartbreaking.

I can speak from experience having lost my oldest son 25 years ago to viral encephalitis. To think that someone could have taken information about my son's death and put it in newspaper print before I had even seen a death report is unethical. There is no pain greater than the loss of a child. To add to that pain with unnecessary heartbreak is just wrong.

Please consider the revision of this statute. Please allow for only medical staff, law enforcement and family to be the first individuals allowed to view the death and autopsy reports. Please consider the people who suffer from allowing just anyone having access to this information. Have we not suffered enough with the death our child?

Sincerely,

Pat Axtman

2264
#2
1/24

11/7/16

Kristi Condon

339 12 ½ Ave E

West Fargo ND 58078

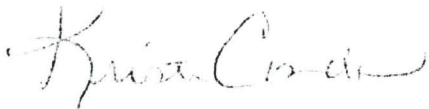
To Whom It May Concern:

I would like to see a statute change in who has access to a death/autopsy report. I feel it should be available only to medical professionals, law enforcement and the family for a period of at least 6 months.

I was very saddened to see the information published on the front page of The Forum. It was hard enough on the family and friends to lose a family member and close friend without the information being splashed on the front page.

Thank you for considering changing this statute.

Sincerely,



Kristi Condon

2264
#2
1/24

11/7/16

Kevin Condon

339 12 ½ Ave E

West Fargo ND 58078

To Whom It May Concern:

I would like to see a statute change in who has access to a death/autopsy report. I feel it should be available only to medical professionals, law enforcement and the family for a period of at least 6 months.

I was very saddened to see the information published on the front page of The Forum. It was hard enough on the family and friends to lose a family member and close friend without the information being splashed on the front page.

Thank you for considering changing this statute.

Sincerely,



Kevin Condon



Testimony
Senate Bill 2264
Senate Human Services Committee
January 24, 2017, 9:45 a.m.
North Dakota Department of Health

Good morning Chairman Lee and members of the Senate Human Services Committee. My name is Kirby Kruger, and I am the Medical Services Section Chief with the North Dakota Department of health. The Medical Services Section includes the Office of the Forensic Examiner. I am here today to provide information to the committee regarding the expected impacts of Senate Bill 2264.

SB 2264 would amend the North Dakota Century Code to specify and require that the entity completing the death report would also notify the decedent's next of kin after the death report is finalized.

The Office of the Forensic Examiner includes three full-time equivalent employees (FTEs) that consist of the forensic pathologist, an office manager that serves as a death investigator, and an autopsy technician/death investigator.

The current system divides North Dakota into two regions with the Department of Health serving 32 western and central counties and the University of North Dakota School of Medicine and Health Sciences, Department of Pathology serving the remaining 21 counties. Each facility is accepting between 240-255 cases per year for autopsy.

The forensic examiner is responsible for assisting the county coroners and law enforcement in the investigation of the cause and manner of death. The forensic examiner is also available to provide information to families regarding the death of their loved ones. Families may request, and the forensic examiner will release to families, the autopsy report after verification of family relationship.

Under current law (NDCC 23-01-05.5), the report of death is a public record except in the case of an active criminal investigation. Requests from the media and the general public for a death report are relatively rare, and usually only associated

with high profile cases. Currently, the department does not release the report of death until the death certificate is finalized.

Local officials do not routinely submit complete information regarding the next of kin to the forensic examiner, nor are they required to. Usually local law enforcement or the funeral home coordinate communications with the next of kin regarding the cause of death. This bill would require the department, for most forensic cases, to reach out to local officials to collect and verify next of kin information before we could even begin the process of contacting the next of kin.

Some ideas to consider that may ease implementation of this bill would include:

- Specify just one entity to make notification and if that is a local entity, requiring feedback to the forensic examiner that family notification has occurred
- Removing the requirement to notify families but holding the report of death as a non-public document for a period of time (i.e. two weeks) after the completion of the cause and manner of death.
- Requiring local officials to submit next of kin information, including phone numbers and addresses, to the Department of Health, allowing the forensic examiner's office to attempt contact with the family in a timely manner.

The department is willing to work with the sponsors and the committee, if needed, to clarify the intent of the bill, and to assist in looking for implementation efficiencies.

This concludes my testimony. I am happy to answer any questions you may have.

SB 2264
Attache
#1
2/6

NDLA, S HMS - Johnson, Marne



To:
Subject:
Attachments:

Lee, Judy E.
Thursday, February 02, 2017 3:20 PM
NDLA, S HMS - Johnson, Marne; NDLA, Intern 02 - Arendt, Ian
FW: SB 2264
SB 2264 Proposed wording 3.docx

Books, please

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
home phone: 701-282-6512
e-mail: jlee@nd.gov

From: Kruger, Kirby J.
Sent: Thursday, February 2, 2017 2:58 PM
To: Lee, Judy E. <jlee@nd.gov>
Cc: Massello, William, MD <wmassello@nd.gov>; Brandner, Tara B. <tbrandner@nd.gov>; Meschke, Darin J. <dmeschke@nd.gov>
Subject: SB 2264

Dear Senator Lee,

Attached is the language that we decided upon with after meeting our attorneys. We felt one the most important aspects regarding protecting families is to keep the report of death confidential for 14 days after it is completed for a number of reasons:

1. It allows time for the family to make requests for records and for those requests to be filled and delivered (delivery could be US Mail and may take several days)
2. It allows time for the normal death certificate processing to take place. This is important because right now most families learn about cause and manner of death through the death certificates and usually work with their funeral director to obtain those death certificates.

We would be willing to be available to answer questions when your committee works on the bill. Just let me know your wishes.

Sincerely,

Kirby



SB 2264
Attache #1
2/6

SB 2264

Replace lines 7-17, inclusive with:

2. An autopsy report and any working papers and notes relating to an autopsy report are confidential and may be disclosed only as permitted by this section. The report of death is becomes a public record subject to disclosure under section 44-04.18 after the deceased's next of kin has been notified or 14 days have elapsed from the time the report of death was completed, whichever occurs first. It is the responsibility of the next of kin to provide satisfactory proof of relationship to the deceased and contact information to be notified. The state forensic examiner or the examiner's designee should make a good faith effort to notify the next of kin with the contact information provided to the state forensic examiner or the examiner's designee within seventy two hours.

3-3-17

#1

SB 2264

House Political Subdivisions Committee

Honorable Representative Lawrence Klemin, Chairman

Senate Bill 2264

Testimony by Senator Brad Bekkedahl

Chairman Klemin and Committee Members,

Senate Bill 2264 is an attempt to correct a tragic sequence of events, that has pointed out a deficiency in next of kin notification processes to inform families of a report of death details before press or other public access. I am sure this is a case of unintended consequences with current statute procedures, and appreciate the family in my District bringing it to our attention for Legislative relief. Suffice to say, a case occurred wherein a press reporter had the report of death information provided to him through electronic transmission, before the family involved was even notified. His call to the family for comment on the report of death before they had seen it created substantial family discomfort, as I am sure you could imagine.

The consideration and drafting of this bill involved the family, their attorney, the North Dakota Newspaper Association representatives, the Forensic Examiner's office of the Department of Health, and Legislative Council. The original bill was amended in the Senate Human Services committee to what is before you now, and we feel strengthens the intent of family notification and privacy protection. The testimony of the Department of Health in Committee was extremely helpful in understanding the processes in place today and how we could work collaboratively to improve the process for families involved.

I thank the Committee for its consideration of this delicate issue today. I will stand for any questions, and following that, would like to introduce Randi Jangula, mother of the deceased Tyler Jangula, to further explain the situation and their attempt to prevent others from having this occur while in a similar situation.

3 - 3 - 17

#2

SB 2264

To Whom It May Concern,

I am writing in an effort to change the way the death and/or autopsy reports are disclosed in North Dakota. I have witnessed a family close to me, receive a great injustice, when it comes to the loop-hole in the disclosure of such death reports. The family was still mourning the loss of their son, when they shockingly received information from a news reporter about the results of the autopsy and death report. Neither the family, medical personnel, nor law enforcement had received any such information before hearing it from the news media. The fact that anyone is allowed to receive such reports before the family, physicians, or law enforcement is very disturbing. And needs to be stopped. I have read ND Century Code 23-01-05.5 regarding disclosure of Autopsy reports, but there is nothing in place stating who should be notified first. I would like to propose that the stated people in this Century Code be notified first before anyone in the general public is allowed. There should be a waiting period (ex. 6 months) for the necessary representatives to receive the information before it is disclosed to the public. We have HIPPA privacy laws in place; there should also be a privacy law regarding death records. No family should have to experience the loss of a child, but to have experienced the notification from news media and deal with information and misinformation published from death report is completely unacceptable. Let's make sure this never happens to another family.

Sincerely,

Desri Neether

3-3-17

SB 2264

#3

11/7/16

Kristi Condon

339 12 ½ Ave E

West Fargo ND 58078


To Whom It May Concern:

I would like to see a statute change in who has access to a death/autopsy report. I feel it should be available only to medical professionals, law enforcement and the family for a period of at least 6 months.

I was very saddened to see the information published on the front page of The Forum. It was hard enough on the family and friends to lose a family member and close friend without the information being splashed on the front page.

Thank you for considering changing this statute.

Sincerely,



Kristi Condon

3-3-17 SB 2264

#4

11/7/16

Kevin Condon

339 12 ½ Ave E

West Fargo ND 58078

To Whom It May Concern:

I would like to see a statute change in who has access to a death/autopsy report. I feel it should be available only to medical professionals, law enforcement and the family for a period of at least 6 months.

I was very saddened to see the information published on the front page of The Forum. It was hard enough on the family and friends to lose a family member and close friend without the information being splashed on the front page.

Thank you for considering changing this statute.

Sincerely,



Kevin Condon

3-3-17 SB2264

#5

Dear Senator Bekkedahl,

The letter I am writing you is concerning The Fargo Forum and how they handled the publishing of Tyler Jangula's tragic passing. On February 1st, 2015 my family suffered the loss of my brother, Tyler Jangula. He was 28 years old at the time of his unexpected and tragic passing.

Three weeks after my brothers passing, the Forum, somehow, for some reason obtained the death report before we as a family had received or viewed the report. We had not received this information and had neither his primary physician nor his physician who had performed his surgery, both of whom had put in a request immediately after his passing. The reporter (Jeff Kolpack) decided at this time that he should make a phone call to my sister (Rheanda Axtman). Rheanda informed this reporter that we as a family would sit down and read the report when we received it. During this phone call, my sister, Rheanda learned the results of what was in my brothers system during the time of his passing, from a stranger, looking for a story to publish. In this phone call, he also told my sister that they would be publishing this information on the front page of the paper, "Because people want to know". Obviously, my sister Rheanda was completely devastated to this senseless phone call from a stranger. I then received a phone call from my sister informing me of what this stranger had told her, and how she was re-experiencing what had happened all over again. My mother, than spent all afternoon on the phone with the editor of the newspaper, who kept telling my mother that with all of the articles that they had written on Tyler, people wanted to know what had happened to him. The following morning, this senseless information was then published on the front page of the Fargo Forum, before all friends and family were informed. What this did was add more stress and misery to an already overwhelming time for my family.

Appallingly, there are no current privacy protections for autopsy or death reports in the state of North Dakota. We as a state have no regulations regarding who can access this information. Have we not suffered enough with the death of our loved one? I personally believe that there needs to be a statute in place to protect future families from experiencing the same torment that we experienced.

Sincerely,

Logan Jangula

3-3-17

#6

SB 2244

October 27, 2016

Senator Brad Bekkedahl
North Dakota Senate
Bismarck ND

Dear Senator Bekkedahl,

I am writing to express my concern about current law in ND. Last year a close friend and youthful Tyler Jangula tragically died suddenly. Perhaps because of his fame as a former NDSU football player and NFL recruit his passing was noticed widely. Sadly, the Forum of Fargo chose to pursue and publish information about his passing in haste that showed little sensitivity for the feelings of his family and friends in the immediate aftermath.

As a result, we have discovered that state law allows immediate public access to death certificates. In the case of Tyler, the Forum obtained the report before Tyler's family or physician. They phoned Tyler's sister and read the report to her over the phone before the family even had the chance to read it together in privacy. You can imagine how this contributed to their consternation in a time of grief over the tragic sudden loss of a brother, son and friend.

I support new legislation that would at least establish some level of privacy, such as already is in place with FERPA and HIPPA, for death certificates so that no families in the future need to suffer the pain endured by the Jangula family last year. I hope that you will be able to work with legislative colleagues to address this concern during the upcoming ND legislative session.

Best regards,



Bill Martin

William O. Martin
2413 Elm St N
Fargo ND 58102-2105
PHONE: 701-271-8119
EMAIL: William.martin@ndsu.edu

SB 2264

7

3-3-17

To whom it may concern,

I am writing this letter in support of changing a statute stating death certificates are public knowledge and can be used for media ratings. My cousin tragically and unexpectedly passed away and we were all beyond devastated. We all thought having to bury a son, a brother, a grandson, a nephew, a cousin, and a friend would be the hardest thing you would have to do. It was the worst believe me, now imagine having to relive that by having a complete stranger tell you what the cause of death was. Having to read it on the front page of the newspaper, having his death be used by the media to sell papers. It's beyond disgusting and devastating to me to know this happened. Now picture this happening in your life, how do you think you would feel? Would you want your mother to read this or have a stranger call her and read your death certificate to her? Imagine you as a parent, sibling, cousin, or friend having this happen to you. I pray that this kind of devastation never happens to you or anyone you know. That's why I'm writing this letter in support of a change. Death certificates should not be public knowledge before its family knowledge. I believe that if after a family finds out their loved ones cause of death if they want to share this information they can. But until they are ready this information should be kept private. It's the hardest time in any family life and to put more devastation on them and expect them to be ok is not ok. Please make a change in the statute and know that you will be changing the lives of many family members.

Thank you

Ashley May

SB2264

#8

3-3-17

October 31, 2016

To Whom It May Concern:

Currently in the state of ND the statute allows anyone to have access to any individual's death report. The death report often delineates the cause of death. It is in essence a condensed version of the autopsy report. Yet to receive an autopsy report one must send in a written request which most people do not realize.

The Jangula family experienced the worst in relation to this statute when their son Tyler died. I am sure they will explain what transpired within their letters – so I will not repeat that information. What I want to express is the pain this situation created for this family. As a friend of the family, I was with them trying to support them through the worse experience a parent can ever go through – the death of a child. And to watch them crushed again at the words of a heartless reporter and newspaper (Fargo Forum) was heartbreaking.

I can speak from experience having lost my oldest son 25 years ago to viral encephalitis. To think that someone could have taken information about my son's death and put it in newspaper print before I had even seen a death report is unethical. There is no pain greater than the loss of a child. To add to that pain with unnecessary heartbreak is just wrong.

Please consider the revision of this statute. Please allow for only medical staff, law enforcement and family to be the first individuals allowed to view the death and autopsy reports. Please consider the people who suffer from allowing just anyone having access to this information. Have we not suffered enough with the death our child?

Sincerely,

Pat Axtman

3-3-17

#9

SB2264

Senator Bekkedahl,

My brother-in-law, Tyler, passing away unexpectedly was terrible. As a family, we were shocked and devastated. Watching my husband and his family live through their loss has been the most difficult thing that I have ever witnessed. I remember feeling numb in the days immediately following his passing. I remember watching the strongest people I know being broken down and having to question why and how this could have happened. Holding my husband as he broke down into tears after viewing his brother's body. Watching my father-in-law attempt to carry on while at a complete loss. Holding up my mother-in-law as she nearly collapsed before entering the church at his funeral. Hearing, from my pregnant sister-in-law, that a reporter from the Forum had called her days after Tyler's passing and disclosed his cause of death before we had the chance to open the letter from the coroner as a family.

Losing a family member is painful, earth-shattering, and unimaginably difficult. I am surprised that there are so few laws in place to protect the victims of this type of tragic circumstance. I am hopeful that you, Senator Bekkedahl, will do everything in your power to enact this statute to protect families in the future who are already dealing with an unimaginable amount of pain. I am sure that no person would intentionally add to this suffering; by enacting Tyler's statute you will bring awareness to an issue that most people do not typically consider. How we, as a community, can bring a small measure of comfort to those people suffering from the ultimate pain-losing a person they love. We can protect the privacy of the families who grieve. We can honor the memory of those who we have lost. We can enact Tyler's statute to limit public access to autopsy reports.

Thank you for hearing our story,

Ala Martin

November 16, 2016

3-3-17 SB2264

#10

Honorable State Senators and Representatives:

I write this letter as a concerned citizen and friend of Tyler Jangula and his family. As a resident of North Dakota, I would like to express my concerns regarding the unfortunate circumstances regarding the release of Tyler's Death Report. The report was released to the public before his family was notified. I firmly believe, as do many other residents, that the immediate family, medical professionals, and law enforcement should be the first to receive the report.

I cannot imagine a more difficult time in one's family. His family members should have had time to grieve before the news was made public. I agree that the media should inform the public. However, I strongly believe that there is an appropriate time for the release of such information.

The emotions and feelings of the family should be considered. I highly support a change to the North Dakota Century Code.

Respectfully,

Chris T. Mack

SB2264

#11

3-3-17

October 22, 2016

Dear Senator Bekkedahl,

On Feb 1st, 2015 my family suffered the loss of my cousin Tyler Jangula. He was 28 years old at the time of his unexpected and accidental passing. Tyler was an exemplarily life-long North Dakotan and a well known athlete. Due to this, the family was blessed with amazing support from the community during this very difficult time. Unfortunately, there was also much publicity regarding his death and his cause of death. A reporter obtained Tyler's death report, before the family, and contacted the family for comments. My cousin Rheanda learned the results of her bother's autopsy from a stranger, a reporter looking for a story, and was completely devastated to be told in this way. This information was then on the front page of a newspaper (despite my aunt's pleading for it not to be) and posted online before all family was even informed. This just added another layer of stress and heartbreak to an already devastating time.

Since you are a medical professional familiar with patient privacy issues, you may assume that something as personal as an autopsy or death report would be part of someones medical records or protected by HIPAA. Or at the very least, there would be some sort of regulation regarding who has access to this information. Unfortunately, in North Dakota no such regulation exists.

I believe that this needs to be addressed so no other family has to suffer the way my family did. The family is currently working with an attorney to write a proposal for necessary changes to the current statute. I hope that you remember our family when you review this and that we can count on your support regarding this very important issue.

Sincerely,

Jesse Jangula, OD

3-3-17 SB2264

#12

To whom it may concern:

I am writing to share my concerns about the current process in place when reporting an autopsy. I was always under the assumption that a person's autopsy was like any other health record as far as the HIPPA guidelines and was only reported to health care officials , law enforcement and of course the family.

A very good friend of ours passed away and we were shocked to learn the news media was able to obtain his medical records and report his cause of death before his medical doctors, surgeon and family members received a copy of his autopsy. The medical professionals had requested a copy but had not received it yet either. For a family to find out from a news reporter how their loved one died before they were able to obtain this report is wrong on so many levels! This family was still in the grieving process and it was like they had to live this nightmare all over again. Only publicly instead of being able to read the autopsy together as a family in private. The heartache of having to deal with this at this time was unbearable!

I would like to see the statute amended so law enforcement, medical personnel and family members be informed of the manner of death before anyone else is able to receive a copy of the autopsy. I would like to see a 6 month waiting period until outside sources are informed.

Claudette Neether

3-3-17 SB2264

#13

To whom it may concern,

I am writing to urge you to take action to amend the statute for the release of a death report to only the next of kin, for the privacy and respect of the family.

I have loved Tyler and his family for many years, and I have never seen heartbreak quite like the trauma caused by the frenzy of news reports on Tyler's death. When Tyler died, this close-knit family was broken and shattered by the loss of their son and brother. If you have ever lost someone close to you far too soon in their life, you know the pain and suffering that ensued; if you have not, I hope that you never have to endure that kind of pain. My point is, that pain alone is enough to deal with – rather than the media making a frenzy of it. It was plastered everywhere from the Fargo Forum to MSN.com front page. And why? What benefit was from this except a 'good read' and gossip? Quite frankly, the news of an 'accidental overdose' falsely tarnished his image, caused his family and friends more pain, and promoted unjust gossip.

My heart broke to read those headlines and to hear people talk about Tyler that way. That is not the Tyler that filled our hearts and our arms. That is not the way Tyler would ever want to be remembered. I know that is just not Tyler at all. Tyler filled our lives with love and laughter – there was a reason people drove from near and far to say goodbye to Tyler, he was our hero, he was our friend, and to some of us, he was our true love. I can only speak for myself when I say that receiving the news of Tyler's death shattered my heart, but seeing those headlines sent my mind racing asking questions. No one should have to have those thoughts run in their mind... Overdose is a tainted word. The word 'accidental' tends to be ambiguous when paired with overdose. No family, friend, or acquaintance should have to ask "what could I have done?" No friend or family should have to receive facebook messages, text messages, and phone calls asking if the news about Ty was true. The way Tyler died was the Jangula family's story to tell, not the Fargo Forum, not MSN.com, not mine, and not yours.

One family experiencing this pain is one family too many. Again, I urge you to aid in the amendment of the statute to treat death records as HIPAA, whereas only the family is given the information and at that point they can chose to stay private or share the information. I urge you to consider the pain and unfair gossip the Jangula's experienced and to step up and fight for this change for the Jangula's, for Tyler's life, and for all the other families who have had to experience similar pain.

Sincerely,

Callie A. Wachendorf, MBA

3-3-17 SB2264

#14

To Whom It May Concern:

I have received an email from the family of Tyler Jangula and it talks about the Statute change for death records in the State of North Dakota. I, myself, do have to agree with everything they are looking into for a change of who can acquire the death record. I am a funeral director in the state of Nebraska and attended NDSU with Tyler. Being in the field I am in, I see more times than none how people (families) can be hurt by the media or other sources because of their ability to access such information. The first right in my opinion is to allow the family and only the family to know the causes of death and therefore have a process which allows them to do so before any sort of media/public entity can acquire these records. The cope with death is something most of us have endured and possibly have went through Kubler-Ross' Stages of Grief, but in some cases I do believe as a healing process, finding facts out as a family before any person(s) or media source is justifiable. It allows you time to cope with the outcome of what is on that record and how you are going to deal with the process of it moving forward in your life as an individual and a family.

Sincerely,

Mike Brower

3-3-17

SB2264

#15

This letter is focused on changing the way autopsy results are revealed to anyone other than the police or family of the deceased, specifically the media.

The past year and a half I have watched some wonderful people suffer immeasurably from the loss of their son and brother. It has been a very difficult time for them, their extended family, and the innumerable amount of friends Tyler has. My husband and Tyler have been friends since they were young kids and I grew up hanging out with the Jangulas so we very much consider them family. When Tyler passed last year, it was devastating. He was always so much fun to be around, the life of the party really. He always wore a smile that lit up his face and was ready to give anyone a big bear hug. When we heard he passed, we were shocked. How could it be that a 28 year old just didn't wake up? We rushed over to the Jangula house to give hugs and just be there for them. There were so many people there that week in and out praying with them, telling 'Tyler' stories, giving hugs, etc. Rheanda told me multiple times that she didn't want to know the cause of his death, but if they ever changed their mind they would get the autopsy results and read it as a family. You can imagine the shock she felt when a reporter from the Fargo Forum called her to get a statement after the autopsy was released. As she didn't know the results had been released, she was devastated when the media was calling for her statement and telling her what the report said. After they pleaded with the Forum multiple times not to release the results, the Forum decided to do it anyway, much to the disgust of the family. We could not believe that they could even do that. How is it that they could get the results before the Williston Police Department and Tyler's family? We watched helplessly as the Jangulas dealt with the fallout of the report that they had not even wanted to read at that time. To us and the people that care about Tyler it did not matter what the report said, but it did matter that the media took the report and released it for everyone to read and decipher for themselves. After the Forum released the

article, my Facebook feed was filled with people sharing the results. I was disgusted by those that continued to share the article, but mostly upset that they could write this knowing it was against the family's wishes. We fully believe there should be a law in place that states autopsy results cannot be released to anyone besides the police and family of the deceased. It is our wish that a law would pass that would prevent another family or friend from hearing results of an autopsy this way.

Sam & Brandon Blomberg

11.16.16

SB2264
3-3-17

#16

To whom it may concern:

I am writing this letter on the behalf of the Jangula family, who have suffered the unexpected loss of their son and brother, Tyler, on February 1st, 2015. This awful news shocked our small community of Williston, however, after his passing it became very apparent how much of an impact Tyler had made not only in his hometown, but across the state and country as a NDSU Bison football player and an outstanding friend/person. I remember seeing headlines of various newspapers and Tyler would be resting on the shoulders of his teammates celebrating a touchdown. The articles talked about him not only as a talented football player but also as the stand-up guy he was both on and off the field.

Although this unfortunate and painful loss will never completely heal, there are certain circumstances that could have prevented additional suffering for the Jangula family. Along with the heart-warming news of remembrance came some cynical news reporters who I believe had crossed the lines. As some of you may know, Tyler's sister, Rheanda, had received a call at her place of work from the Fargo Forum asking her about additional details in Tyler's death and this reporter also began to read off his death report, against her wishes, which was completely heartbreaking for her and unacceptable. The Jangula family had requested this report immediately after the death of Tyler, along with his primary physician and surgeon, and intended to go through it as a family which is understandable. Neither the family nor the medical professionals had received it at this time. So how could this news reporter receive this report before them, just so he/she could make front page news and sell more newspapers? Whoever this individual was from the Fargo Forum is disturbing, but I do realize that there are unfortunately these people in the world- who care more about pressing a family member of the recently deceased for answers in order to increase work status and generate money. That is out of your control and mine; and sure enough, the newspaper had the results plastered all over the front page for everyone to see.

Tyler's death has brought to my attention many things, one of which is just how easily accessible these reports are. Right now, I can go onto the North Dakota Department of Health website and request a death report, lie about my relationship towards that person and it would be sent to me. There is no security check. I could also write a request letter to the coroner's office and they would send the report back to me. What I would like to see changed is who has access to such records and at what length of time should they be released to the public. For example, the family, health care providers, and law enforcement should be the only ones to receive the immediate death report. After a six month period perhaps then they could be accessed by the public. The Public Access to Death Records states:

"The Access to Public Records Act ("APRA") (I.C. § 5-14-3) provides that all records maintained by a public agency are public records, but some may be confidential or disclosable at the discretion of the public agency. All records which do not fall into the exceptions must be made available for public inspection and copying. The APRA is a general statute; any specific statute regarding access to specific records supersedes the APRA. (I.C. 36-2-14) describes the duties of a county coroner (I.C. 16-37)".

There are no specific time parameters set as to when these records can be released to the general public. The paragraph above simply states that that information must be made available for public record, although some may remain confidential for some time if requested by the public agency- all other records must be made public. I believe that the family should have a right to request confidentiality of the death report of a family member, next-of-kin, through their public agency for a period of time.

So yes, Tyler's case is unique in that he was a well-known individual and people were curious as to the cause of death of someone so young and athletic. Some might think, well that's the only reason his death certificate was requested by anyone other than family- would you request the death report of your elderly neighbor? No. Well I don't think that is necessarily true. Try to imagine losing a relative to a drug overdose or a son or daughter to suicide. When a family loses someone it is very personal, especially in a way that is so delicate. The family may not want anyone to know the cause of death and I believe that the family has a right to withhold the reports under certain provisions, at least for a specific amount of time to allow them to heal. Because there ARE people out there that will try to investigate something that is of no concern to them- especially when there is mystery as to the possible cause. That is just the truth. And hopefully, after time these people will move onto something else. Please consider making death reports only accessible to the family and other pertinent individuals in the case of death, unless otherwise specified by the family for at least a period of six months or greater.

Thank you,

E. Bustad

3-3-17

#17

SB2264

Dear Representative,

I am writing to you because of what I have personally experienced with how the death report was released of one of my close friends – Tyler Jangula. It was shocking to me to learn that someone outside the immediate family and physicians would be given access to something that is so personal and intimate as a death report. After watching Tyler's family and all of our friends go through this tragic event and grieving alongside with them, I couldn't believe that I found out how my friend and teammate passed away was through a local newspaper before I had time to reach out directly the Jangula family.

I am writing as a concerned citizen and hoping that my voice will be heard to change this statute of the duration of how long someone from outside the immediate family, physicians, and law enforcement would be given access to the death report. I would like to see a timeline of at least 6 months before a death record is open to the public and allow the families to decide if they would like to release the records earlier.

I hope that the State will recognize that the current statute in place does not give time for families to grieve as they go through these extremely difficult times. As citizens, we rely on the State to protect our individual rights and the way this statute is currently written, this is not protecting anyone and is a violation of an individual's privacy.

Thank you for your time in hearing my concern and thank you in advance to addressing and making the appropriate changes with this statute.

Regards,

John Majeski

3-3-17 SB2264

#18

Randi Jangula

From: renste@paulbunyan.net
Sent: Thursday, October 20, 2016 5:58 PM
To: Randi Jangula
Subject: Re: Tyler Jangula Statute Change

Follow Up Flag: Follow up
Flag Status: Completed

I watched and grieved with my sister and her family when they lost their son it was the hardest thing to do or so I thought but a few weeks later my sister called me informing me of what the Fargo Forum was intending to do, as they had gotten a copy of their sons death report. This is devastating to a family that is grieving already and for someone else to be able to receive this information before the family is horribly wrong. Please pass the Tyler Jangula Statute so other families do not have to go thru what my sister and her family did.

Sincerely

Rena May
Bemidj, Minnesota

3-3-17

#19

SB2264

November 1st, 2016

Dear Senator Bekkedahl,

On Feb 1st, 2015 our family suffered the sudden and unexpected loss of our nephew, Tyler Jangula. Tyler was a well-known athlete and life-long North Dakotan. Because of this, our family was blessed with amazing support from the community during this very difficult time. Unfortunately, there was also much publicity regarding his death and his cause of death. A reporter obtained Tyler's death report (before our family did) and contacted our family for comments. Our niece Rheanda learned the results of her brother's autopsy from a stranger, a reporter looking for a story, and was completely devastated to be told in this way. This information was then on the front page of a newspaper (despite our sister-in-law begging for it not to be) and posted online before all family was even informed. This just added another layer of stress and heartbreak to an already devastating time.

Shockingly, there is currently no privacy protection for families regarding autopsy or death reports. In North Dakota, we have no regulation regarding who can access this information. Many other states have restrictions in place limiting the information, which would have helped protect our family's privacy and wishes after Tyler's passing.

We believe that this needs to be addressed so no other family has to suffer the way we did. We are currently working with an attorney to write a proposal for necessary changes to the current statute. We hope that you remember our family when you review this and that we can count on your support regarding this very important issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "James and Diana Jangula". The signature is written in dark ink and is positioned above the printed name.

James and Diana Jangula

3-3-17 SB2264

#20

November 1, 2016

To whom it may concern:

I am writing in support of a statute change that would lengthen the time before the release of an autopsy report to the public and press.

When tragedies occur resulting in death it is primarily the family who carry the burden of suffering. To lessen, somewhat, their loss, is the reason that I write in support of such a request.

Robert W. Kemp formerly of Williston, ND
1054 Avenida Sonoma
Lady Lake, FL 32159

3-3-17 SB2264

#21

October 29, 2016

Dear Senator Bekkedahl,

On Feb 1st, 2015, my family suffered the loss of my cousin, Tyler Jangula. He was 28 years old at the time of his unexpected and accidental death. Tyler was an exemplarily life-long North Dakotan and a well-known athlete. Due to this, the family was blessed with amazing support from the community during this very difficult time. In addition, because of him being well known in the state, there was a lot of publicity regarding his remarkable athletics and his unfortunate, unexpected death. Three weeks after Tyler's death, a reporter contacted the family for comments regarding Tyler's cause of death. This reporter had obtained Tyler's death report, before the family had received or viewed the report. During this phone call, my cousin, Rheanda learned the results of her brother's autopsy from a stranger, a reporter looking for a story. Rheanda was completely devastated to the news and to be told in this uncompassionate way. The following morning, this information was then on the front page of newspapers (despite my aunt's pleading for it not to be) and posted online before all family and friends were even informed. This added another layer of stress and heartbreak to an already devastating time for family and friends.

Since you are a medical professional familiar with patient privacy issues, you may assume that something as personal as an autopsy or death report would be part of someone's medical records and protected by HIPAA. Or at the very least, there would be some sort of regulation regarding who have access to this information or the time frame in which it is available to be viewed by the public. Unfortunately, in North Dakota no such regulation exists.

I believe that this needs to be addressed so that no other family would have to suffer the way my family did. The family is currently working with an attorney to write a proposal for necessary changes to the current statute. I hope that you remember our family when you review this and that we can count on your support regarding this very important issue.

Sincerely,

The block contains two handwritten signatures. The first signature is a stylized, cursive signature that appears to be 'Jennifer'. The second signature is also cursive and appears to be 'Ryan'. Both signatures are written in black ink.

Jennifer and Ryan Dietz

SB 2264

#22

3-3-17

To whom it may concern;

It was my third day back at work as a Respiratory Therapist when I got the call from Jeff Kopack who is a Fargo forum reporter. Jeff started the conversation off with asking me if I had received Tyler's autopsy results yet. I stated that we had not and we decided that as a family when we do receive them we were not ready to go over them yet. When we were ready we were going to have our Family Dr. with us to explain any questions we had. Jeff proceeded to state "Well we received the autopsy today." When he said that my heart began to have that chest pain that had become so familiar the past couple of weeks. He then asked me if I wanted to hear the results. I stated "NO!" Jeff then told me that Tyler had died from an accidental overdose and if I would like to comment for the article they would be writing for the paper.

Not just my older brother Tyler but everybody deserves the dignity and respect to not have their health information in the newspaper and online. I don't want another person to have to go through what I went through when I received that phone call from Jeff Kopack. Where did my brother's health rights go? Instantly my thought as a healthcare professional how does the media get the results before the police and his own Drs.? Who had both put in a request to get Tyler's results as soon as they were available? HIPAA is the #1 rule in healthcare and should proceed with you even after you have passed.

I am not asking that the media never gets the results of the autopsy. All I am asking is that the results get to the proper people first. The family, healthcare workers and police officers should be the first people to be informed of the results. Not the media so they can go and write one more article on this person. I would like to see a 6 month grace period after the individual as died before the media can get ahold of the autopsy.

Thank you,

Rheanda Jangula-Axtman

SB 2204

#23

To whom it may concern;

3-3-17

We are writing this letter in support of a change to the ND statute regarding the release of a person's death report.

2 years ago on Feb 1st 2015 our family suffered the worst possible tragedy the untimely death of our first born son Tyler Jangula at the age of 28. We were so very fortunate to have the amazing support of family and friends to help us get through this terrible time.

About 3 weeks after Tyler passed just as the scab was trying to form over our hearts the Fargo Forum got his death report and decided that it would make great front page news. Jeff Kolpack from the Forum called Rheanda (our daughter and Tyler's sister) at her place of work and asked her if we had received it yet. (We had not and neither had his primary physician nor his physician who had done his surgeon. Both of whom had put in a request immediately after his death.) Rheanda informed him that we had decided that when we got the report we as a family would sit down and read it. He proceeded to read the report off to her she was devastated! I spent the entire afternoon on the phone with the editor of the paper trying to convince him that this really wasn't front page news. All I kept getting told was how many articles that they had written on Tyler and that people wanted to know. I informed them that if anyone wanted to know what Tyler died from that they certainly could contact me and I would give them all the information but not on the front page of a newspaper! I also asked them if they published everyone's death report that they ran an obituary on and they said to me yes they did!

I guess in all my years in the health field I naively thought that your death report is treated the same as your health records and that that fell under the guidelines of HIPPA. This is not the case. We would like to see something to the effect that the people that would have first access to the death/autopsy report would be medical professionals, law enforcement and then the family. After a period of time possible 6 months it then could be open to the public.

We beg you to consider this change in the Statute allowing a reasonable amount of time which we believe to be at least 6 months to transpire before the public is able to access a person's death report.

Thank you

Randi Jangula



Henry Jangula

SB 2264

#24

3-3-17

Friday, March 03, 2017

HOUSE POLITICAL SUBDIVISIONS COMMITTEE
Engrossed SB 2264

CHAIRMAN KLEMIN AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. We oppose engrossed SB 2264 as it now reads, but would support it with our proposed amendments.

Autopsy records were open records since statehood in North Dakota, when they were then called coroners' records. The 2009 Legislature, to balance the public's right to know with the expectation of privacy that should be accorded to the deceased, revised the law to break the autopsy reports down into two parts: the front page of the report, labeled "Report of Death", would list all the key details of the autopsy such as name, date of death, cause of death, etc. This would be public when completed as the law had always required. The rest of the report, the "Autopsy Report", would be confidential.

SB 2264 deals with the Report of Death. As introduced, it would have created a three-day grace period to allow the family to get the autopsy report before it became public. However, it was not clear on who should get and dispense this information. As amended, engrossed HB 2264 cleared up this confusion, but made the records confidential for 14 days rather than three days.

We believe 14 days is unworkable, particularly in the case of notable deaths, and does not comport with the intent of the original legislation.

Our proposed amendments, attached, restore the three-day grace period but retains the rest of the Senate changes that clarified who receives and discloses this information.

We respectfully request you adopt our amendments and give this bill a DO PASS

Thank you for your time and consideration. I'd be happy to answer any questions.

PROPOSED AMENDMENTS TO ENGROSSED SB 2264

On page 1, line 10, delete the underscored "fourteen days" and insert in lieu thereof underscored "seventy-two hours"

On page 1, line 15, following "next of kin" insert "by any means possible"

Renumber accordingly

(OVER)

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2264

Introduced by

Senators Bekkedahl, Laffen, D. Larson

Representatives Hatlestad, Howe, Sukut

1 A BILL for an Act to amend and reenact subsection 2 of section 23-01-05.5 of the North Dakota
2 Century Code, relating to providing notification of the report of death to the next of kin of the
3 deceased.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 2 of section 23-01-05.5 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 2. An autopsy report and any working papers and notes relating to an autopsy report are
8 confidential and may be disclosed only as permitted by this section. The report of
9 death ~~is becomes~~ a public record ~~subject to disclosure under section 44-04-18 after the~~
10 ~~deceased's next of kin is notified, or fourteen days have elapsed since the time the~~
11 ~~report of death was completed, whichever occurs first.~~ The next of kin is responsible
12 ~~for providing to the state forensic examiner or the examiner's designee satisfactory~~
13 ~~proof of relationship to the deceased and contact information for notification of the~~
14 ~~autopsy results. The state forensic examiner or the examiner's designee shall make a~~
15 ~~good faith effort to notify the next of kin using the provided contact information within~~
16 ~~seventy-two hours after the report of death is completed.~~

SEVENTY-TWO HOURS
(BY ANY MEANS POSSIBLE)

3-3-17



Testimony
Senate Bill 2264
House Political Subdivisions Committee
March 3, 2017, 9:45 a.m.

Good morning Chairman Klemin and members of the House Political Subdivisions Committee. My name is Kirby Kruger, and I am the Medical Services Section Chief with the North Dakota Department of Health (NDDoH). The Medical Services Section includes the Office of the Forensic Examiner. I am here today to provide information to the committee regarding Senate Bill 2264.

SB 2264 would make the report of death, which is now an open record from the moment of completion, a confidential record for a period of 14 days after the completion of the report of death or after the family is notified, whichever comes first. It would also require the forensic examiner to notify the families when the record is completed using the contact information provided by the family. Furthermore it would require that a good faith effort be made by the forensic examiner to make this notification within 72 hours.

Under current law (NDCC 23-01-05.5), the report of death is a public record except in the case of an active criminal investigation. Requests from the media and the general public for a death report are relatively rare. Currently, the department does not release the report of death until the death certificate is finalized.

The Office of the Forensic Examiner includes three full-time equivalent employees (FTEs) that consist of the forensic pathologist, an office administrator that serves as a death investigator, and an autopsy technician/death investigator. North Dakota is divided into two regions, with the Department of Health conducting autopsies for 32 western and central counties and the University of North Dakota School of Medicine and Health Sciences, Department of Pathology conducting autopsies for the remaining 21 counties. Each facility accepts between 240-255 North Dakota cases per year for autopsy.

The forensic examiner is responsible for assisting the county coroners and law enforcement in the investigation of the cause and manner of death. The forensic

examiner is also available to provide information to families regarding the death of their loved ones. Families may request, and the forensic examiner will release to families, the full autopsy report after verification of family relationship. Local officials do not routinely submit complete information regarding the next of kin to the forensic examiner, nor are they required to.

The current version of the bill takes into consideration the following.

1. The North Dakota Death certificate contains all the information found on the record of death except for a list of any investigating agencies.
2. Many families receive the cause and manner of death from the death certificate.
3. Most North Dakota funeral homes provide assistance to families by requesting official copies of the death certificate on the families' behalf.
4. Because the death certificates are sent through normal mail, this process may take a week or longer, depending on other factors such as weekends, holidays and weather. In addition if the funeral home has requested the death certificates on behalf of the family, some extra time may be needed for the funeral home to deliver the certificates to the family.
5. This bill will require the forensic examiner to verify that individuals requesting a report of death prior to the family being notified are actually allowed to receive that report of death. Although not required, it is possible that the verification process would need to be done through normal mail.
6. The good faith effort language was added to Senate Bill 2264 because the previous language caused concerns with some scenarios.
 - a. If the only information provided to the NDDoH is a phone number, and that phone number is now not working or is owned by another person would we have to make 2 additional calls to the same number if we could not find any other locating information?
 - b. If the only information we have on next of kin is a mailing address, would we be required to send three letters?
 - c. There are instances where the next-of-kin does not want to be contacted and does not wish to know anything about the cause, manner and circumstances of death.
 - d. The family recuses itself from any involvement in individual's death, including burial, cremation or disposition of the decedent's estate.

With the current version of the bill, we would use the contact information provided by the next of kin and we would also be able to check with vital records or the funeral home to make sure that the death certificates were delivered to the next of kin.

The department believes we offered a solution that fits well with current business practices and that provides more protection against the release of information to the public prior to families or next of kin being notified as to the cause and manner of death of their loved ones.

This concludes my testimony. I am happy to answer any questions you may have.

#1

3-9-17

Rep. Hatlestad
Subcommittee

17.0338.04000
Sixty-fifth
Legislative Assembly
of North Dakota

**FIRST ENGROSSMENT
ENGROSSED SENATE BILL NO. 2264**

Introduced by
Senators Bekkedahl, Laffen, D. Larson
Representatives Hatlestad, Howe, Sukut

A BILL for an Act to amend and reenact subsection 2 of section 23-01-05.5 of the North Dakota Century Code, relating to providing notification of the report of death to the next of kin of the deceased.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 23-01-05.5 of the North Dakota Century Code is amended and reenacted as follows:

An autopsy report and any working papers and notes relating to an autopsy report are confidential and may be disclosed only as permitted by this section.

The next of kin is responsible for providing to the state forensic examiner or the examiner's designee satisfactory proof of relationship to the deceased and contact information for notification of the autopsy results.

The county coroner or state forensic examiner shall notify, immediately, to the decedent's next of kin, **the report of death**. The state forensic examiner or the examiner's designee shall make a good faith effort to notify the next of kin using the provided contact information within seventy-two hours after the report of death is completed.

After the confirmed notification of the next of kin, the report of death becomes a public record subject to disclosure under section 44-04-18.

SB 2264

3-15-17

#1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2264

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 2 of section 23-01-05.5. of the North Dakota Century Code, relating to providing notification of the report of death to the next of kin of the deceased.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 23-01-05.5 of the North Dakota Century Code is amended and reenacted as follows:

2. An autopsy report and any working papers and notes relating to an autopsy report are confidential and may be disclosed only as permitted by this section. The report of death is a public record subject to disclosure under section 44-04-18 as follows:
 - a. The next of kin is responsible for providing to the state forensic examiner or the examiner's designee satisfactory proof of relationship to the deceased and contact information for notification of the autopsy results.
 - b. The state forensic examiner or the examiner's designee, a county coroner, or a pathologist who performed the autopsy shall notify immediately the decedent's next of kin of the availability of the report of death. The notification or attempts to notify the next of kin must be recorded.
 - c. The report of death becomes a public record four days following the notification of next of kin, whether verbal or written, or, if no next of kin can be found, five days following the completion of the autopsy."

Renumber accordingly

SB 2264

3-15-17

#2

Rep Hallstad

b. after recorded: The notification must precede any public disclosure of the report of death.

C. the report of death becomes a public record four days following the notification of next of kin, whether verbal or written. If no next of kin can be found the report of death may be disclosed as permitted by law.

SB 2264

#3

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2264

3-15-17

Jack McDonald

Introduced by

Senators Bekkedahl, Laffen, D. Larson

Representatives Hatlestad, Howe, Sukut

1 A BILL for an Act to amend and reenact subsection 2 of section 23-01-05.5 of the North Dakota
2 Century Code, relating to providing notification of the report of death to the next of kin of the
3 deceased.

4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 SECTION 1. AMENDMENT. Subsection 2 of section 23-01-05.5 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 2. An autopsy report and any working papers and notes relating to an autopsy report are
8 confidential and may be disclosed only as permitted by this section. The report of
9 death ~~is~~ ^{THREE DAYS} ~~becomes~~ a public record ~~subject to disclosure under section 44-04-18~~ ^{THREE DAYS} ~~after the~~
10 ~~deceased's next of kin is notified, or fourteen days have elapsed since the time the~~
11 ~~report of death was completed, whichever occurs first. The next of kin is responsible~~
12 ~~for providing to the state forensic examiner or the examiner's designee satisfactory~~
13 ~~proof of relationship to the deceased and contact information for notification of the~~
14 ~~autopsy results. The state forensic examiner or the examiner's designee shall make a~~
15 ~~good faith effort to notify the next of kin~~ ^{BY ALL AVAILABLE MEANS} ~~using the provided contact information within~~
16 ~~seventy-two hours after the report of death is completed.~~

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2264

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 2 of section 23-01-05.5 of the North Dakota Century Code, relating to providing notification of the report of death to the next of kin or authorized representative of the deceased.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 23-01-05.5 of the North Dakota Century Code is amended and reenacted as follows:

2. An autopsy report and any working papers and notes relating to an autopsy report are confidential and may be disclosed only as permitted by this section. The report of death is a public record subject to disclosure under section 44-04-18 as follows:
 - a. The next of kin or authorized representative requesting the autopsy results is responsible for providing to the state forensic examiner or the examiner's designee satisfactory proof of relationship to the deceased and contact information for notification of the autopsy results.
 - b. When in receipt of the information in subdivision a, the state forensic examiner, examiner's designee, county coroner, or pathologist who performed the autopsy shall notify immediately the decedent's next of kin or authorized representative of the availability of the report of death. The notification or attempts to notify the next of kin or authorized representative must be recorded and must precede any public disclosure of the report of death.
 - c. The report of death becomes a public record four days following the notification of or attempts to notify the next of kin or authorized representative, whether verbal or written. If no next of kin or authorized representative can be found, the report of death may be disclosed."

Renumber accordingly

SB 2264
#1
4/4

17.0338.04000

FIRST ENGROSSMENT

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2264

Introduced by

Senators Bekkedahl, Laffen, D. Larson

Representatives Hatlestad, Howe, Sukut

1 A BILL for an Act to amend and reenact subsection 2 of section 23-01-05.5 of the North Dakota
2 Century Code, relating to providing notification of the report of death to the next of kin of the
3 deceased.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 2 of section 23-01-05.5 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 2. An autopsy report and any working papers and notes relating to an autopsy report are
8 confidential and may be disclosed only as permitted by this section. The report of
9 death is becomes a public record subject to disclosure under section 44-04-18 after the
10 deceased's next of kin is notified, or fourteen days have elapsed since the time the
11 report of death was completed, whichever occurs first. The next of kin is responsible
12 for providing to the state forensic examiner or the examiner's designee satisfactory
13 proof of relationship to the deceased and contact information for notification of the
14 autopsy results. The state forensic examiner or the examiner's designee shall make a
15 good faith effort to notify the next of kin using the provided contact information within
16 seventy-two hours after the report of death is completed.

2264
#1
4/6

SECTION 1. AMENDMENT. Subsection 2 of section 23-01-05.5 of the North Dakota Century Code is amended and reenacted as follows:

2. An autopsy report and any working papers and notes relating to an autopsy report are confidential and may be disclosed only as permitted by this section. The report of death is ~~a public record~~ subject to disclosure ~~under section 44-04-18~~ as follows:

- a. The next of kin or authorized representative requesting the ~~report of death~~ ~~autopsy results~~ is responsible for providing to the state forensic examiner or the examiner's designee satisfactory proof of relationship to the deceased and contact information for notification of the ~~report of death~~ ~~autopsy results~~.
- b. When in receipt of the information in subdivision a, the state forensic examiner, examiner's designee, county coroner, or pathologist who performed the autopsy shall make a good faith effort to immediately notify the decedent's next of kin or authorized representative of the availability of the report of death. The notification or attempts to notify the next of kin or authorized representative must be recorded ~~and must precede any public disclosure of the report of death~~.
- c. The report of death becomes a public record ~~eight~~ ~~four~~ days ~~following the notification of or attempts to notify the next of kin or authorized representative, whether verbal or written~~ ~~after completion of the~~ ~~after the report of death is finalized~~ ~~autopsy report~~. ~~If no next of kin or authorized representative can be found~~ ~~submits proof of relationship or contact information under subdivision a, the report of death may be disclosed~~ ~~becomes an open record when the autopsy report is completed~~.