

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1320

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Deanna Halliwell
Operator's Signature

10/3/03
Date

2003 HOUSE JUDICIARY

HB 1320

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10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1320

House Judiciary Committee

Conference Committee

Hearing Date 1-20-03

Tape Number	Side A	Side B	Meter #
1	XX		0-16

Committee Clerk Signature *W Penno*

Minutes: 13 members present.

Chairman DeKrey: I don't see the prime sponsor here, so we will hear opposition now.

Jack McDonald, ND Newspaper Association & ND Broadcasters Association: Opposed (see attached testimony).

Rep. Koppelman: I am the sponsor of HB 1320, (see attached testimony). I have drafted an amendment to my bill, and urge the committee to adopt that amendment. The bill does allow access to autopsy photos, what the amendment would do is delete the areas of the bill that deal with both inquests and records. Immediate family can still have access to autopsy photos and by law enforcement or a court order. I request that the amendment to HB 1320 and a Do Pass recommendation on the bill when amended.

Rep. Delmore: So Rep. Koppelman, you would be amenable to what Mr. McDonald has suggested?

Rep. Koppelman: I would and I believe the amendment does accomplish that.

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Rep. Delmore: That would mean that the media would have no access to even see the photos themselves.

Rep. Koppelman: That would be correct. They would not be available for publication, and I would think that if by court order or if family request, the photos wouldn't be prohibited if a family wanted them.

Rep. Klemin: The term immediate family, what is the definition? What constitutes immediate family.

Rep. Koppelman: We did discuss that, the term immediate family is well-defined and well established in state law.

Rep. Klemin: The second question has to do with medical education and training of persons who do this kind of work. Would this preclude those persons in medical education or training programs from seeing autopsy photos.

Rep. Koppelman: I don't really know the answer to that. I suppose if they are not public record, they would have to get the permission of the family or a court or law enforcement to do that.

Rep. Klemin: Use of the word confidential. As I understand it, there is a distinction between confidential and exemption in open records. You are saying, that even though these would "confidential" records which means they can't be disclosed, that nevertheless the family could disclose them.

Rep. Koppelman: I am not sure that I know the answer to that. My intention is simply to keep them from being released for public consumption and used in an irresponsible manner, and whether that term should be confidential or exempt, I am not sure of the distinction.

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Hearing Date 1-20-03

Chairman DeKrey: Thank you for appearing. Anyone else wishing to testify in support of HB 1320.

Chairman DeKrey: Have you seen the amendment, Mr. McDonald. Does it fix what you want or still have problems with it.

Jack McDonald: We support the amendment. I think we need to massage the amendment a little bit, I'm not sure if it is doing exactly what Rep. Koppelman wants. I think we can work through it.

Rep. Klemin: This section that you've got attached to your testimony, that says records of the coroner are public records in counties over 8,000 people. There is no similar provision for counties under 8,000 now?

Mr. McDonald: Not really. That specific provision is in 11-19.1 which actually is the older law. 11-19 is the new law.

Rep. Klemin: So if it's over 8,000, they are public records and if under 8,000 they are not.

Mr. McDonald: No not really because there is no provision in 11-19 that makes it confidential or exempt, so therefore they are open to public records. That's the reason they didn't put that in, they are open records unless there's something that makes them closed. There is a definition of "immediate family" in the law, relating to notification of next-of-kin in the law enforcement section; husband, spouse and children. If records are confidential, they are closed and forbidden by law to be released to anyone, including someone with medical training, etc. Exempt means that they can be released at the discretion of the coroner, or for medical training.

Edward Erickson, AG Office: I was not hear to provide testimony but just to observe; but the section that Jack had mentioned talking about the medical records being public documents, was

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Hearing Date 1-20-03

put in not to address whether the records are open or closed but to address the fact that these documents are the property of the government; there was an issue where some medical coroners are just local doctors and there was concern that they might regard these documents as theirs, as a doctor and not the government's property, as far as the autopsy. That is all that section addresses under general open records law.

Rep. Kingsbury: Can the cause of death be kept off the death certificate by family request. Is that legal.

Chairman DeKrey: Yes. Anyone else wishing to testify on HB 1320. We will close the hearing on HB 1320.

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Donna Bell
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10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1320

House Judiciary Committee

Conference Committee

Hearing Date 1-27-03

Tape Number	Side A	Side B	Meter #
1		xx	27-29
Committee Clerk Signature <i>Al Penix</i>			

Minutes: Committee work was held on HB 1320. Two sets of amendments were offered, one from Rep. Koppelman and one from Rep. DeKrey. (see attached amendments)

Rep. Delmore: Moved do pass on both sets of amendments: .0101 and .0102.

Rep. Maragos: Seconded.

Chairman DeKrey: Any discussion?

Rep. Klemin: I think the term "immediate family" is too vague. Shouldn't include someone staying in the home to be immediate family.

Rep. Delmore: Withdraw the motion for the 2 sets of amendments.

Rep. Maragos: Withdraw second.

Chairman DeKrey: Rep. Klemin will put together the amendments into one total amendment.

Meeting closed.

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Dennis Hall
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10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1320

House Judiciary Committee

Conference Committee

Hearing Date 1-28-03

Tape Number	Side A	Side B	Meter #
2	xx		17.2-20
Committee Clerk Signature <i>R. Penrose</i>			

Minutes: Committee work was held. Rep. Klemin brought the new amendment that would cover amendments of 1-27-03, plus add the definition of "immediate family".

Chairman DeKrey: What are the committee's wishes.

Rep. Klemin: I move a do pass on the amendments.

Rep. Grande: Seconded.

Voice vote: All aye.

Rep. Klemin: Move a Do Pass as amended.

Rep. Grande: Seconded.

12 YES 0 NO 1 ABSENT DO PASS W/AMENDMENTS CARRIER: Rep. Grande

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Dennis Hallworth
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10/3/03
Date

38279.0101
Title.

Prepared by the Legislative Council staff for
Representative Koppelman
January 17, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1320

Page 1, line 1, replace "sections 11-19-02, 11-19-03," with "section" and remove ", and"

Page 1, line 2, remove "23-01-05.4" and remove "Inquest and"

Page 1, line 3, replace "information" with "photographs and video recordings"

Page 1, remove lines 5 through 23

Page 2, line 3, after "results" insert "- Confidentiality"

Page 2, line 13, replace "The" with "Photographs or video recordings of an" and remove "report and any related materials"

Page 2, line 15, remove "The coroner may provide the cause of death for the"

Page 2, remove lines 16 through 31

Page 3, remove lines 1 through 4

Renumber accordingly

Deanna Hall
Operator's Signature

10/3/03
Date

38279.0102
Title.

Prepared by the Legislative Council staff for
Representative DeKrey
January 20, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1320

Page 1, line 11, after the first underscored comma insert "a medical school for use for educational purposes."

Page 1, line 21, after the first underscored comma insert "a medical school for use for educational purposes."

Page 2, line 14, after the underscored comma insert "a medical school for use for educational purposes."

Page 3, line 2, after "requiring" insert "or authorizing"

Renumber accordingly

Page No. 1

38279.0102

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