

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 164
Feb 21, 2025
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30064-MG-22

Short Title: Parental Consent to Release Child Autopsies. (Public)

Sponsors: Representative Balkcom.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING A PARENTAL CONSENT REQUIREMENT FOR THE
3 DISCLOSURE OR RELEASE OF CHILD AUTOPSY INFORMATION COMPILED OR
4 PREPARED BY THE OFFICE OF THE CHIEF MEDICAL EXAMINER.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 130A-385 is amended by adding new subsections to read:

7 "(d1) Any records, worksheets, reports, photographs, tests, or analyses compiled, prepared,
8 or conducted by the Office of the Chief Medical Examiner, a pathologist designated by the Chief
9 Medical Examiner, a county medical examiner appointed under G.S. 130A-382, an investigating
10 medical examiner, or an autopsy center in connection with the death of a child who was under
11 18 years of age at the time of death, including any autopsy photographs or video or audio
12 recordings, are confidential and may be disclosed or released only with the prior written consent
13 of the deceased child's parent or guardian or a person standing in loco parentis to the deceased
14 child as follows:

15 (1) The custodian of the finalized autopsy report may release a copy at a time and
16 location determined by the custodial agency to a personal representative of the
17 decedent's estate to enable the personal representative to fulfill his or her
18 duties under the law.

19 (2) The Office of the Chief Medical Examiner, a pathologist designated by the
20 Chief Medical Examiner, a county medical examiner appointed under
21 G.S. 130A-382, an investigating medical examiner, or an autopsy center is not
22 prohibited from disclosing or releasing information or reports when necessary
23 to address public health or safety concerns; for public health purposes,
24 including public health surveillance, investigations, interventions, and
25 evaluations; to facilitate research; to comply with reporting requirements
26 under State or federal law or in connection with State or federal grants; or to
27 comply with any other duties imposed by law.

28 Any person who willfully and knowingly discloses or releases confidential materials in
29 connection with the death of a child who was under 18 years of age at the time of death, in
30 violation of this subsection, or who willfully and knowingly possesses or disseminates
31 confidential materials that were disclosed or released in violation of this subsection, is guilty of
32 a Class 1 misdemeanor; provided, however, that more than one occurrence of disclosure, release,
33 possession, or dissemination of the same item by the same person is not a separate offense. As
34 used in this subsection, the term "disclose" means the act of making materials designated as
35 confidential under this subsection available for viewing or listening by a person or entity upon
36 request, at a time and location chosen by the custodial agency, and the term "release" means the



1 act of the custodial agency in providing a copy of materials designated confidential under this
2 subsection.

3 (d2) In the event a deceased child's parents or guardian or person standing in loco parentis
4 to the deceased child withholds the consent required for disclosure or release under subsection
5 (d1) of this section, a person or entity seeking disclosure or release of the materials may
6 commence a special proceeding in the superior court of the county where the death that is the
7 subject of the materials occurred to obtain a court order for disclosure or release of the materials.
8 The court may conduct an in-camera review of the materials. Upon a showing of good cause, a
9 superior court judge may issue an order authorizing the disclosure or release of the materials and
10 may prescribe any restrictions or stipulations that the superior court judge deems appropriate.
11 The petitioner shall provide reasonable notice of the commencement of the special proceeding
12 and reasonable notice of the opportunity to be present and heard at any hearing on the matter in
13 accordance with Rule 5 of the Rules of Civil Procedure. The notice shall be provided, in writing,
14 to the deceased child's parents or guardian, or to the person standing in loco parentis to the
15 deceased child; the Office of the Chief Medical Examiner; the district attorney of the county in
16 which the death occurred; and the personal representative of the estate of the deceased, if any. In
17 determining good cause, the judge shall consider whether the disclosure or release is necessary
18 for the public evaluation of governmental performance, the seriousness of the intrusion into the
19 family's right to privacy, whether the requested disclosure or release is the least intrusive means
20 available, the need to withhold the records to facilitate the investigation or prosecution of
21 criminal offenses, the rights of the defendant in any ongoing criminal investigation or
22 prosecution, the public interest in having access to the records, and the availability of similar
23 information in other public records, regardless of form. A party aggrieved by an order of the
24 superior court authorized by this subsection may appeal in accordance with Article 27 of Chapter
25 1 of the General Statutes."

26 **SECTION 2.** G.S. 130A-389.1 reads as rewritten:

27 **"§ 130A-389.1. Photographs and video or audio recordings made pursuant to autopsy.**

28 (a) Except as otherwise provided by law, law and excluding any confidential materials in
29 connection with the death of a child who was under 18 years of age at the time of death that a
30 parent or guardian or person standing in loco parentis elects to protect from disclosure or release
31 under G.S. 130A-385(d1), any person may inspect and examine original photographs or video or
32 audio recordings of an autopsy performed pursuant to G.S. 130A-389(a) at reasonable times and
33 under reasonable supervision of the custodian of the photographs or recordings. Except as
34 otherwise provided by this section, no custodian of the original recorded images shall furnish
35 copies of photographs or video or audio recordings of an autopsy to the public. For purposes of
36 this section, the Chief Medical Examiner shall be the custodian of all autopsy photographs or
37 video or audio recordings unless the photographs or recordings were taken by or at the direction
38 of an investigating medical examiner and the investigating medical examiner retains the original
39 photographs or recordings. ~~If~~ Except in cases in which the materials are protected from disclosure
40 or release under G.S. 130A-385(d1), if the investigating medical examiner has retained the
41 original photographs or recordings, then the investigating medical examiner is the custodian of
42 the photographs or video or audio recordings and ~~must~~ shall allow the public to inspect and
43 examine them in accordance with this subsection.

44 ...

45 (d) A person who is denied access to copies of photographs or video or audio recordings,
46 or who is restricted in the use the person may make of the photographs or video or audio
47 recordings under this section, may commence a special proceeding in accordance with Article 33
48 of Chapter 1 of the General Statutes. Upon a showing of good cause, the clerk may issue an order
49 authorizing the person to copy or disclose a photograph or video or audio recording of an autopsy
50 and may prescribe any restrictions or stipulations that the clerk deems appropriate. In determining
51 good cause, the clerk shall consider whether the disclosure is necessary for the public evaluation

1 of governmental performance; the seriousness of the intrusion into the family's right to privacy
2 and whether the disclosure is the least intrusive means available; and the availability of similar
3 information in other public records, regardless of form. In all cases, the viewing, copying,
4 listening to, or other handling of a photograph or video or audio recording of an autopsy shall be
5 under the direct supervision of the Chief Medical Examiner or the Chief Medical Examiner's
6 designee. A party aggrieved by an order of the clerk may appeal to the appropriate court in
7 accordance with Article 27A of Chapter 1 of the General Statutes. This subsection does not apply
8 to autopsy photographs or video or audio recordings of a deceased child that was under 18 years
9 of age at the time of death that a parent or guardian or person standing in loco parentis elects to
10 protect from disclosure or release under G.S. 130A-385(d1). Autopsy photographs or video or
11 audio recordings of a deceased child that was under 18 years of age at the time of death may be
12 disclosed or released only with the prior consent of the deceased child's parent or guardian or
13 person standing in loco parentis to the deceased child or in accordance with G.S. 130A-385(d2).

14"

15 **SECTION 3.** G.S. 132-1.8 reads as rewritten:

16 "**§ 132-1.8. Confidentiality of photographs and video or audio recordings made pursuant**
17 **to autopsy.**

18 Except as otherwise provided in G.S. 130A-389.1, a photograph or video or audio recording
19 of an official autopsy is not a public record as defined by G.S. 132-1. However, the text of an
20 official autopsy report, including any findings and interpretations prepared in accordance with
21 G.S. 130A-389(a), is a public record and fully accessible by the public. For purposes of this
22 section, an official autopsy is an autopsy performed pursuant to ~~G.S.~~
23 ~~130A-389(a).~~ G.S. 130A-389(a) on a person who was 18 years of age or older at the time of
24 death."

25 **SECTION 4.** This act becomes effective October 1, 2025.