

SECOND REGULAR SESSION

HOUSE BILL NO. 2315

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SHARP (37).

5662H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 58.451, 58.720, and 455.543, RSMo, and to enact in lieu thereof four new sections relating to domestic violence.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 58.451, 58.720, and 455.543, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 58.212, 58.451, 58.720, and 455.543, to read as follows:

58.212. 1. Notwithstanding any other provision of law, a copy, reproduction, or facsimile of any kind of a photograph, negative, or print, including instant photographs and video recordings, of the body, or any portion of the body, of a deceased person taken by or for the coroner at the scene of death or in the course of a post-mortem examination or autopsy shall not be made or disseminated except as follows:

(1) For use in a criminal action or proceeding in this state that relates to the death of that person;

(2) As a court of this state permits by order, after good cause has been shown and after written notification of the request for the court order has been served at least five days before the order is made, upon the prosecuting attorney of the county in which the post-mortem examination or autopsy has been made or caused to be made;

(3) As a court of this state permits as provided under section 610.205;

(4) For use or potential use in a civil action or proceeding in this state that relates to the death of that person if either of the following applies:

(a) A subpoena is issued by a party who is a legal heir or representative of the deceased person in a pending civil action; or

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **(b) The coroner receives written authorization from a legal heir, representative,**
18 **or family member of that person. The written authorization may be provided before the**
19 **action is filed or while the action is pending. To verify the identity of the legal heir,**
20 **representative, or family member, the following shall be provided to the coroner:**

21 **a. A declaration under penalty of perjury that the individual is a legal heir,**
22 **representative, or family member of the deceased person;**

23 **b. A valid form of identification; and**

24 **c. A certified death certificate.**

25 **2. This section shall not apply to the production or dissemination of a copy,**
26 **reproduction, or facsimile for use in the field of forensic pathology, in medical or**
27 **scientific education or research, or by a coroner or any law enforcement agency in the**
28 **United States for investigative purposes, including identification and identification**
29 **confirmation.**

30 **3. This section shall apply to a copy, reproduction, or facsimile, and to a**
31 **photograph, negative, or print, regardless of when it was made.**

32 **4. A coroner is not personally liable for monetary damages in a civil action for**
33 **any act or omission in compliance with this section.**

34 **5. For the purposes of this section, "family member" means a parent, sibling, or**
35 **child of the deceased.**

58.451. 1. When any person, in any county in which a coroner is required by section
2 58.010, dies and there is reasonable ground to believe that such person died as a result of:

3 (1) Violence by homicide, suicide, or accident;

4 (2) Criminal abortions, including those self-induced;

5 (3) Some unforeseen sudden occurrence and the deceased had not been attended by a
6 physician during the thirty-six-hour period preceding the death;

7 (4) In any unusual or suspicious manner;

8 (5) Any injury or illness while in the custody of the law or while an inmate in a public
9 institution;

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11 the police, sheriff, law enforcement officer or official, or any person having knowledge of
12 such a death shall immediately notify the coroner of the known facts concerning the time,
13 place, manner and circumstances of the death. **If the person who died has an identifiable**
14 **history of being victimized by domestic violence, as defined in section 455.543, any law**
15 **enforcement officer or official providing the notification to the coroner shall include**
16 **information in the notification about such violence.** Immediately upon receipt of
17 notification, the coroner or deputy coroner shall take charge of the dead body and fully
18 investigate the essential facts concerning the medical causes of death, including whether by

19 the act of man, and the manner of death. The coroner or deputy coroner may take the names
20 and addresses of witnesses to the death and shall file this information in the coroner's office.
21 The coroner or deputy coroner shall take possession of all property of value found on the
22 body, making exact inventory of such property on the report and shall direct the return of such
23 property to the person entitled to its custody or possession. The coroner or deputy coroner
24 shall take possession of any object or article which, in the coroner's or the deputy coroner's
25 opinion, may be useful in establishing the cause of death, and deliver it to the prosecuting
26 attorney of the county.

27 2. When a death occurs outside a licensed health care facility, the first licensed
28 medical professional or law enforcement official learning of such death shall immediately
29 contact the county coroner. **If the person who died has an identifiable history of being**
30 **victimized by domestic violence, as defined in section 455.543, any law enforcement**
31 **officer or official providing the notification to the coroner shall include information in**
32 **the notification about such violence.** Immediately upon receipt of such notification, the
33 coroner or the coroner's deputy shall make the determination if further investigation is
34 necessary, based on information provided by the individual contacting the coroner, and
35 immediately advise such individual of the coroner's intentions.

36 3. Notwithstanding the provisions of subsection 2 of this section to the contrary, when
37 a death occurs under the care of a hospice, no investigation shall be required if the death is
38 certified by the treating physician of the deceased or the medical director of the hospice as a
39 natural death due to disease or diagnosed illness. The hospice shall provide written notice to
40 the coroner within twenty-four hours of the death.

41 4. Upon taking charge of the dead body and before moving the body the coroner shall
42 notify the police department of any city in which the dead body is found, or if the dead body
43 is found in the unincorporated area of a county governed by the provisions of sections 58.451
44 to 58.457, the coroner shall notify the county sheriff or the highway patrol and cause the body
45 to remain unmoved until the police department, sheriff or the highway patrol has inspected
46 the body and the surrounding circumstances and carefully noted the appearance, the condition
47 and position of the body and recorded every fact and circumstance tending to show the cause
48 and manner of death, with the names and addresses of all known witnesses, and shall
49 subscribe the same and make such record a part of the coroner's report.

50 5. In any case of sudden, violent or suspicious death after which the body was buried
51 without any investigation or autopsy, the coroner, upon being advised of such facts, may at
52 the coroner's own discretion request that the prosecuting attorney apply for a court order
53 requiring the body to be exhumed.

54 6. The coroner may certify the cause of death in any case where death occurred
55 without medical attendance or where an attending physician refuses to sign a certificate of
56 death or when a physician is unavailable to sign a certificate of death.

57 7. When the cause of death is established by the coroner, the coroner shall file a copy
58 of the findings in the coroner's office within thirty days.

59 8. If on view of the dead body and after personal inquiry into the cause and manner of
60 death, the coroner determines that a further examination is necessary in the public interest, the
61 coroner on the coroner's own authority may make or cause to be made an autopsy on the body.
62 The coroner may on the coroner's own authority employ the services of a pathologist,
63 chemist, or other expert to aid in the examination of the body or of substances supposed to
64 have caused or contributed to death, and if the pathologist, chemist, or other expert is not
65 already employed by the city or county for the discharge of such services, the pathologist,
66 chemist, or other expert shall, upon written authorization of the coroner, be allowed
67 reasonable compensation, payable by the city or county, in the manner provided in section
68 58.530. The coroner shall, at the time of the autopsy, record or cause to be recorded each fact
69 and circumstance tending to show the condition of the body and the cause and manner of
70 death.

71 9. If on view of the dead body and after personal inquiry into the cause and manner of
72 death, the coroner considers a further inquiry and examination necessary in the public
73 interest, the coroner shall make out the coroner's warrant directed to the sheriff of the city or
74 county requiring the sheriff forthwith to summon six good and lawful citizens of the county to
75 appear before the coroner, at the time and place expressed in the warrant, and to inquire how
76 and by whom the deceased died.

77 10. (1) When a person is being transferred from one county to another county for
78 medical treatment and such person dies while being transferred, or dies while being treated in
79 the emergency room of the receiving facility the place which the person is determined to be
80 dead shall be considered the place of death and the county coroner or medical examiner of the
81 county from which the person was originally being transferred shall be responsible for
82 determining the cause and manner of death for the Missouri certificate of death.

83 (2) The coroner or medical examiner in the county in which the person is determined
84 to be dead may with authorization of the coroner or medical examiner from the original
85 transferring county, investigate and conduct postmortem examinations at the expense of the
86 coroner or medical examiner from the original transferring county. The coroner or medical
87 examiner from the original transferring county shall be responsible for investigating the
88 circumstances of such and completing the Missouri certificate of death. The certificate of
89 death shall be filed in the county where the deceased was pronounced dead.

90 (3) Such coroner or medical examiner of the county where a person is determined to
91 be dead shall immediately notify the coroner or medical examiner of the county from which
92 the person was originally being transferred of the death of such person, and shall make
93 available information and records obtained for investigation of the death.

94 (4) If a person does not die while being transferred and is institutionalized as a
95 regularly admitted patient after such transfer and subsequently dies while in such institution,
96 the coroner or medical examiner of the county in which the person is determined to be dead
97 shall immediately notify the coroner or medical examiner of the county from which such
98 person was originally transferred of the death of such person. In such cases, the county in
99 which the deceased was institutionalized shall be considered the place of death. If the manner
100 of death is by homicide, suicide, accident, criminal abortion including those that are self-
101 induced, child fatality, or any unusual or suspicious manner, the investigation of the cause and
102 manner of death shall revert to the county of origin, and this coroner or medical examiner
103 shall be responsible for the Missouri certificate of death. The certificate of death shall be
104 filed in the county where the deceased was pronounced dead.

105 11. There shall not be any statute of limitations or time limits on the cause of death
106 when death is the final result or determined to be caused by homicide, suicide, accident, child
107 fatality, criminal abortion including those self-induced, or any unusual or suspicious manner.
108 The place of death shall be the place in which the person is determined to be dead. The final
109 investigation of death in determining the cause and matter of death shall revert to the county
110 of origin, and the coroner or medical examiner of such county shall be responsible for the
111 Missouri certificate of death. The certificate of death shall be filed in the county where the
112 deceased was pronounced dead.

113 12. Except as provided in subsection 10 of this section, if a person dies in one county
114 and the body is subsequently transferred to another county, for burial or other reasons, the
115 county coroner or medical examiner where the death occurred shall be responsible for the
116 certificate of death and for investigating the cause and manner of the death.

117 13. In performing the duties, the coroner or medical examiner shall comply with
118 sections 58.775 to 58.785 with respect to organ donation.

58.720. 1. When any person dies within a county having a medical examiner as a
2 result of:

- 3 (1) Violence by homicide, suicide, or accident;
- 4 (2) Thermal, chemical, electrical, or radiation injury;
- 5 (3) Criminal abortions, including those self-induced;
- 6 (4) Disease thought to be of a hazardous and contagious nature or which might
7 constitute a threat to public health; or when any person dies:
8 (a) Suddenly when in apparent good health;

9 (b) When unattended by a physician, chiropractor, or an accredited Christian Science
10 practitioner, during the period of thirty-six hours immediately preceding his death;

11 (c) While in the custody of the law, or while an inmate in a public institution;

12 (d) In any unusual or suspicious manner;

13

14 the police, sheriff, law enforcement officer or official, or any person having knowledge of
15 such a death shall immediately notify the office of the medical examiner of the known facts
16 concerning the time, place, manner and circumstances of the death. **If the person who died**
17 **has an identifiable history of being victimized by domestic violence, as defined in section**
18 **455.543, any law enforcement officer or official providing the notification to the coroner**
19 **shall include information in the notification about such violence.** Immediately upon
20 receipt of notification, the medical examiner or his **or her** designated assistant shall take
21 charge of the dead body and fully investigate the essential facts concerning the medical
22 causes of death. ~~[He]~~ **The medical examiner** may take the names and addresses of witnesses
23 to the death and shall file this information in his **or her** office. The medical examiner or his
24 **or her** designated assistant shall take possession of all property of value found on the body,
25 making exact inventory thereof on his **or her** report and shall direct the return of such
26 property to the person entitled to its custody or possession. The medical examiner or his **or**
27 **her** designated assistant ~~[examiner]~~ shall take possession of any object or article which, in his
28 **or her** opinion, may be useful in establishing the cause of death, and deliver it to the
29 prosecuting attorney of the county.

30 2. When a death occurs outside a licensed health care facility, the first licensed
31 medical professional or law enforcement official learning of such death shall contact the
32 county medical examiner. **If the person who died has an identifiable history of being**
33 **victimized by domestic violence, as defined in section 445.543, any law enforcement**
34 **officer or official providing the notification to the coroner shall include information in**
35 **the notification about such violence.** Immediately upon receipt of such notification, the
36 medical examiner or the medical examiner's deputy shall make a determination if further
37 investigation is necessary, based on information provided by the individual contacting the
38 medical examiner, and immediately advise such individual of the medical examiner's
39 intentions.

40 3. Notwithstanding the provisions of subsection 2 of this section to the contrary, when
41 a death occurs under the care of a hospice, no investigation shall be required if the death is
42 certified by the treating physician of the deceased or the medical director of the hospice as a
43 natural death due to disease or diagnosed illness. The hospice shall provide written notice to
44 the medical examiner within twenty-four hours of the death.

45 4. In case of sudden, violent or suspicious death after which the body was buried
46 without any investigation or autopsy, the medical examiner, upon being advised of such facts,
47 may at his **or her** own discretion request that the prosecuting attorney apply for a court order
48 requiring the body to be exhumed.

49 5. The medical examiner shall certify the cause of death in any case where death
50 occurred without medical attendance or where an attending physician refuses to sign a
51 certificate of death, and may sign a certificate of death in the case of any death.

52 6. When the cause of death is established by the medical examiner, he **or she** shall file
53 a copy of his findings in his **or her** office within thirty days after notification of the death.

54 7. (1) When a person is being transferred from one county to another county for
55 medical treatment and such person dies while being transferred, or dies while being treated in
56 the emergency room of the receiving facility, the place which the person is determined to be
57 dead shall be considered the place of death and the county coroner or the medical examiner of
58 the county from which the person was originally being transferred shall be responsible for
59 determining the cause and manner of death for the Missouri certificate of death.

60 (2) The coroner or medical examiner in the county in which the person is determined
61 to be dead may, with authorization of the coroner or medical examiner from the transferring
62 county, investigate and conduct postmortem examinations at the expense of the coroner or
63 medical examiner from the transferring county. The coroner or medical examiner from the
64 transferring county shall be responsible for investigating the circumstances of such and
65 completing the Missouri certificate of death. The certificate of death shall be filed in the
66 county where the deceased was pronounced dead.

67 (3) Such coroner or medical examiner, or the county where a person is determined to
68 be dead, shall immediately notify the coroner or medical examiner of the county from which
69 the person was originally being transferred of the death of such person and shall make
70 available information and records obtained for investigation of death.

71 (4) If a person does not die while being transferred and is institutionalized as a
72 regularly admitted patient after such transfer and subsequently dies while in such institution,
73 the coroner or medical examiner of the county in which the person is determined to be dead
74 shall immediately notify the coroner or medical examiner of the county from which such
75 person was originally transferred of the death of such person. In such cases, the county in
76 which the deceased was institutionalized shall be considered the place of death. If the manner
77 of death is by homicide, suicide, accident, criminal abortion including those that are self-
78 induced, child fatality, or any unusual or suspicious manner, the investigation of the cause and
79 manner of death shall revert to the county of origin, and this coroner or medical examiner
80 shall be responsible for the Missouri certificate of death. The certificate of death shall be
81 filed in the county where the deceased was pronounced dead.

82 8. There shall not be any statute of limitations or time limits on cause of death when
83 death is the final result or determined to be caused by homicide, suicide, accident, criminal
84 abortion including those self-induced, child fatality, or any unusual or suspicious manner.
85 The place of death shall be the place in which the person is determined to be dead, but the
86 final investigation of death determining the cause and manner of death shall revert to the
87 county of origin, and this coroner or medical examiner shall be responsible for the Missouri
88 certificate of death. The certificate of death shall be filed in the county where the deceased
89 was pronounced dead.

90 9. Except as provided in subsection 7 of this section, if a person dies in one county
91 and the body is subsequently transferred to another county, for burial or other reasons, the
92 county coroner or medical examiner where the death occurred shall be responsible for the
93 certificate of death and for investigating the cause and manner of the death.

94 10. In performing the duties, the coroner or medical examiner shall comply with
95 sections 58.775 to 58.785 with respect to organ donation.

455.543. 1. **For purposes of this section, the following terms mean:**

2 **(1) "Domestic violence", as defined under section 455.010;**

3 **(2) "Family or household member", a spouse, former spouse, person related by**
4 **blood or marriage, person who is presently residing with the victim or who has resided**
5 **with the victim in the past, person who is or has been in a continuing social relationship**
6 **of a romantic or intimate nature with the victim, or person who has a child in common**
7 **with the victim regardless of whether they have been married or have resided together**
8 **at any time;**

9 **(3) "Identifiable history of being victimized by domestic violence", demonstrable**
10 **past incidents of being victimized by domestic violence that may be verified by prior**
11 **police reports, written or photographic documentation, restraining order declarations,**
12 **eyewitness statements, or other evidence that corroborates a history of such incidents.**

13 **2.** In any incident investigated by a law enforcement agency involving a homicide or
14 suicide, the law enforcement agency shall make a determination as to whether the homicide
15 or suicide is related to domestic violence.

16 ~~[2. In making such determination, the local law enforcement agency may consider a~~
17 ~~number of factors including, but not limited to, the following:~~

18 ~~(1) If the relationship between the perpetrator and the victim is or was that of a family~~
19 ~~or household member;~~

20 ~~(2) Whether the victim or perpetrator had previously filed for an order of protection;~~

21 ~~(3) Whether any of the subjects involved in the incident had previously been~~
22 ~~investigated for incidents of domestic violence; and~~

23 ~~(4) Any other evidence regarding the homicide or suicide that assists the agency in~~
24 ~~making its determination]~~

25 **3. Prior to making any findings as to the manner and cause of death of a**
26 **deceased individual with an identifiable history of being victimized by domestic**
27 **violence, and in the presence of three or more factors listed in subsection 4 of this**
28 **section, law enforcement investigators shall interview family or household members or**
29 **other close friends or relatives of the decedent with relevant information regarding that**
30 **history of domestic violence.**

31 **4. Law enforcement investigators may request a complete autopsy in a case**
32 **where they have determined there is an identifiable history of being victimized by**
33 **domestic violence and any of the following conditions are present:**

34 **(1) The decedent died prematurely or in an untimely manner;**

35 **(2) The scene of the death gives the appearance of death due to suicide or**
36 **accident;**

37 **(3) One family or household member wanted to end the relationship;**

38 **(4) There is a history of being victimized by domestic violence that includes**
39 **coercive control;**

40 **(5) The decedent is found dead in a home or place of residence;**

41 **(6) The decedent is found by a current or previous family or household member;**

42 **(7) There is a history of being victimized by domestic violence that includes**
43 **strangulation or suffocation;**

44 **(8) The current or previous family or household member of the decedent is the**
45 **last to see the decedent alive;**

46 **(9) The family or household member had control of the scene before law**
47 **enforcement arrived; or**

48 **(10) The body of the decedent has been moved or the scene or other evidence is**
49 **altered in some way.**

50 ~~[3-]~~ **5. After making a determination as to whether the homicide or suicide is related**
51 **to domestic violence, the law enforcement agency shall forward the information required to**
52 **the Missouri state highway patrol on a form or format approved by the patrol. The required**
53 **information shall include the gender and age of the victim, the type of incident investigated,**
54 **the disposition of the incident and the relationship of the victim to the perpetrator. The state**
55 **highway patrol shall develop a form for this purpose which shall be distributed by the**
56 **department of public safety to all law enforcement agencies by October 1, 2000.**

57 **6. Sworn law enforcement personnel investigating a death where it has been**
58 **determined that the decedent has an identifiable history of being victimized by domestic**

59 violence shall be current in their training related to domestic violence incidents,
60 including training required under sections 590.040 and 590.050.

61 7. During the pendency of the investigation and any review, family members
62 shall have access to all victim services and support provided under this chapter.

63 8. In the event that a local law enforcement agency makes a finding that the
64 death is not a homicide and closes the case, family members or their legal counsel shall
65 have the right to request any and all records of the investigation currently available
66 under chapter 610.

67 9. This section does not require local law enforcement agencies to compromise
68 an existing or open investigation and does not preempt the discretion provided to local
69 law enforcement agencies in the investigation of death cases. This section does not
70 impose any additional liability on a local law enforcement agency for its investigation of
71 existing cases or its investigative conclusions in those cases.

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