

# HOUSE BILL No. 4890

June 7, 2005, Introduced by Reps. Condino and Caswell and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 2851, 2855, and 10108 (MCL 333.2851, 333.2855, and 333.10108), section 2851 as added by 1996 PA 284, section 2855 as amended by 1982 PA 3, and section 10108 as amended by 1986 PA 186; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2851. (1) Subject to any other provision of this part, a  
 2 person who has authority to make arrangements for a dead human body  
 3 under ~~this part~~ **SECTION 3206 OF THE ESTATES AND PROTECTED**  
 4 **INDIVIDUALS CODE, 1998 PA 386, MCL 700.3206,** also has authority to  
 5 request a permit for the disinterment of a dead human body under

1 section 2853 notwithstanding the lack of consent of, or 1 or more  
2 objections of, a person who owns or possesses ownership rights over  
3 the place of repose. A person who owns or possesses ownership  
4 rights over the place of repose shall not bear any cost associated  
5 with the disinterment unless that person initiates the disinterment  
6 or is otherwise legally obligated for the costs of the  
7 disinterment.

8 (2) This section does not void or otherwise affect a gift made  
9 pursuant to part 101.

10 Sec. 2855. (1) An autopsy shall not be performed upon the body  
11 of a deceased individual except by a physician who has been granted  
12 written consent to perform the autopsy by ~~whichever 1 of the~~  
13 ~~following individuals assumes custody of the body for purposes of~~  
14 ~~burial: parent, surviving spouse, guardian, or next of kin of the~~  
15 ~~deceased individual or by an individual charged by law with the~~  
16 ~~responsibility for burial of the body. If 2 or more of these~~  
17 ~~individuals assume custody of the body, the consent of 1 is~~  
18 ~~sufficient.~~ **THE PERSON WITH AUTHORITY OVER THE BURIAL OR**  
19 **DISPOSITION OF THE BODY UNDER SECTION 3206 OF THE ESTATES AND**  
20 **PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.3206.** This section  
21 shall **DOES** not prevent the ordering of an autopsy by a medical  
22 examiner or a local health officer.

23 (2) This section ~~shall~~ **DOES** not apply to a department of  
24 anatomy in a school of medicine in this state ~~,~~ or to an autopsy,  
25 postmortem, or dissection performed pursuant to and under the  
26 authority of any other law.

27 (3) A local health officer may order an autopsy if necessary

1 to carry out the functions vested in a local health department by  
2 this code.

3 (4) A physician, including a medical examiner, performing an  
4 autopsy pursuant to subsection (1), (2), or (3) may remove, retain,  
5 or use the pituitary gland of the deceased individual if the  
6 removal, retention, or use of the pituitary gland is for purposes  
7 of medical research, education, or therapy, and the physician is  
8 unaware of any direction made by the deceased individual before  
9 death or of an objection made by the next of kin of the deceased  
10 individual that a part of the deceased individual's body not be  
11 removed.

12 (5) If consent for the performance of the autopsy is required  
13 pursuant to subsection (1), the physician shall obtain consent from  
14 the same individual for the removal, retention, or use of the  
15 pituitary gland of the deceased individual pursuant to subsection  
16 (4).

17 (6) Except for a reasonable charge related to the actual costs  
18 incurred and incident to removing and handling the pituitary gland,  
19 the removed pituitary gland shall be submitted, without charge, to  
20 hospitals, medical education or research institutions, or to  
21 individuals or organizations for the purpose of treating another  
22 human being. The hospital, medical education or research  
23 institution, or other individual or organization receiving the  
24 gland shall agree to furnish the gland, or a hormone produced from  
25 the gland, without charge.

26 Sec. 10108. (1) The donee may accept or reject the gift. If  
27 the donee accepts a gift of the entire body, the ~~surviving spouse,~~

1 ~~next of kin, or other persons having~~ **PERSON WITH** authority to  
2 direct and arrange for the funeral and burial or other disposition  
3 of the body **UNDER SECTION 3206 OF THE ESTATES AND PROTECTED**  
4 **INDIVIDUALS CODE, 1998 PA 386, MCL 700.3206**, subject to the terms  
5 of the gift, may authorize embalming and the use of the body in  
6 funeral services. If the gift is a physical part of the body, the  
7 donee, upon the death of the donor and prior to embalming, shall  
8 cause the physical part to be removed without unnecessary  
9 mutilation. After removal of the physical part, custody of the  
10 remainder of the body vests in the ~~surviving spouse, next of kin,~~  
11 ~~or such other persons having~~ **PERSON WITH** authority to direct and  
12 arrange for the funeral and burial or other disposition of the  
13 remainder of the body **UNDER SECTION 3206 OF THE ESTATES AND**  
14 **PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.3206**. The holder  
15 of a license for the practice of mortuary science under article 18  
16 of the occupational code, ~~Act No. 299 of the Public Acts of 1980,~~  
17 ~~being sections 339.1801 to 339.1812 of the Michigan Compiled Laws~~  
18 **1980 PA 299, MCL 339.1801 TO 339.1812**, who acts pursuant to the  
19 directions of persons alleging to have authority to direct and  
20 arrange for the funeral and burial or other disposition of the  
21 remainder of the body, is relieved of any liability for the funeral  
22 and for the burial or other disposition of the remainder of the  
23 body. A holder of a license for the practice of mortuary science  
24 under that act may rely on the instructions and directions of any  
25 person alleging to be either a donee or a person authorized under  
26 this part to donate a body or any physical part thereof. A holder  
27 of a license for the practice of mortuary science under that act is

1 not liable for removal of any physical part of a body donated under  
2 this part.

3 (2) The time of death shall be determined by a physician who  
4 attends the donor at the death, or, if none, the physician who  
5 certifies the death. The attending or certifying physician shall  
6 not participate in the procedures for removing or transplanting a  
7 physical part.

8 (3) A person, including a hospital, who acts in good faith in  
9 accord with the terms of this part or with the anatomical gift laws  
10 of another state or a foreign country is not liable for damages in  
11 any civil action or subject to prosecution in any criminal  
12 proceeding for the act.

13 (4) This part is subject to the laws of this state prescribing  
14 powers and duties with respect to autopsies.

15 Enacting section 1. Sections 2651 to 2663 of the public  
16 health code, 1978 PA 368, MCL 333.2651 to 333.2663, are repealed.

17 Enacting section 2. This amendatory act does not take effect  
18 unless Senate Bill No.\_\_\_\_ or House Bill No. 4870(request no.  
19 00385'05 \*) of the 93rd Legislature is enacted into law.