

52:17B-88.1 to 52:17B-88.6

**LEGISLATIVE HISTORY CHECKLIST**

**NJSA:** 52:17B-88.1 to 52:17B-88.6

(Autopsy-contrary to deceaseds' religious beliefs requir "compelling public necessity")

**LAWS OF:** 1983

**CHAPTER:** 535

**Bill No:** A3881

**Sponsor(s):** Doyle

**Date Introduced:** September 6, 1983

**Committee: Assembly:** -----

**Senate:** Judiciary

**Amended during passage:** Yes

Amendments during passage denoted by asterisks

**Date of Passage: Assembly:** September 15, 1983

**Senate:** January 9, 1984

**Date of Approval:** January 17, 1984

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee statement: Assembly** No

**Senate** No

**Fiscal Note:** No

**Veto Message:** No

**Message on Signing:** No

**Following were printed:**

**Reports:** No

**Hearings:** No

---

1-17-84

[OFFICIAL COPY REPRINT]

## ASSEMBLY, No. 3881

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 6, 1983

By Assemblyman DOYLE

AN ACT concerning the performance of dissections or autopsies in certain circumstances.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. As used in this act:

2 a. "Compelling public necessity" means

3 (1) That the dissection or autopsy is essential to the criminal  
4 investigation of a homicide of which the decedent is the victim; or

5 (2) That the discovery of the cause of death is necessary to  
6 meet an immediate and substantial threat to the public health and  
7 that a dissection or autopsy is essential to ascertain the cause of  
8 death; or

9 *\*(3) That the death was that of an inmate of a prison, jail or*  
10 *penitentiary; or*

11 *(4) That the death was that of a child under the age of 12 years*  
12 *suspected of having been abused, or neglected or suspected of being*  
13 *a threat to public health, and the cause of whose death is not*  
14 *apparent after diligent investigation by the medical examiner; or\**

15 **\*[(3)]\*** *\*(5)\** That the need for a dissection or autopsy is  
16 established pursuant to the provisions of section 4 of this act.

17 b. "Friend" means any person who, prior to the decedent's  
18 death, maintained **\*[regular]\*** *\*close\** contact with the decedent  
19 sufficient to render that person **\*[familiar]\*** *\*knowledgeable\** with  
20 the decedent's activities, health and religious beliefs; and who  
21 presents an affidavit stating the facts and circumstances upon which  
22 the claim that the person is a friend is based and stating that the

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

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendments adopted December 15, 1983.

23 person will assume responsibility for the lawful disposition of the  
24 body of the deceased.

1 2. Notwithstanding any other provision of law to the contrary,  
2 no dissection or autopsy shall be performed, in the absence of a  
3 compelling public necessity, over the objection of a \***[surviving**  
4 **relative or]**\* *\*member of the deceased's immediate family or in the*  
5 *absence thereof, a\** friend of the deceased that the procedure is  
6 contrary to the religious belief of the decedent or if there is \***[any**  
7 **or other]**\* *\*an obvious\** reason to believe that a dissection or  
8 autopsy is contrary to the decedent's religious beliefs.

1 3. Whenever, in the opinion of a medical examiner, there is a  
2 compelling public necessity under paragraphs (1) \***[and (2)]**\*  
3 *\*(2), (3), and (4)\** of subsection a. of section 1 of this act to per-  
4 form an autopsy or dissection, and a \***[surviving relative or]**\*  
5 *\*member of the deceased's immediate family or, in the absence*  
6 *thereof, a\** friend objects that the autopsy or dissection is contrary  
7 to the religious beliefs of the deceased or there is \***[any other]**\*  
8 *\*an obvious\** reason to believe that the autopsy or dissection is  
9 contrary to the religious beliefs of the deceased, then no dissection  
10 or autopsy shall be performed until 48 hours after notice thereof is  
11 given by the medical examiner to the objecting party, or, if there is  
12 no objecting party, to such party as the court may name. During  
13 that 48-hour period, the objecting party or the party named by the  
14 court may institute action in the Superior Court to determine the  
15 propriety of the dissection or autopsy, but the court may dispense  
16 with the waiting period upon ex parte motion if it determines that  
17 the delay may prejudice the accuracy of the autopsy or dissection.

1 4. Whenever, in the opinion of a medical examiner, there is a  
2 compelling public \***[necessity under paragraph (3) of subsection**  
3 **a.]**\* *\*necessity in circumstances not provided for in paragraphs*  
4 *(1), (2), (3) and (4)\** of section 1 of this act to perform an autopsy  
5 or dissection; and a \***[surviving relative or]**\* *\*member of the*  
6 *deceased's immediate family or, in the absence thereof, a\** friend  
7 objects that the autopsy or dissection is contrary to religious beliefs  
8 of the deceased or there is \***[any other]**\* *\*an obvious\** reason to  
9 believe that the autopsy or dissection is contrary to the religious  
10 beliefs of the deceased, then the medical examiner may institute an  
11 action in the Superior Court for an order authorizing the autopsy  
12 or dissection. The action shall be instituted by an order to show  
13 cause on notice to the \***[surviving relative]**\* *\*member of the*  
14 *deceased's immediate family\** or friend, or if none is known, then  
15 to such party as the court may direct. \***[The action shall have pre-**  
16 **ference over all other cases and shall be determined summarily upon**

17 the petition and oral or written proof, if any, offered by the parties.  
18 The court shall permit the autopsy or dissection to be performed  
19 if it finds that the medical examiner established a demonstrable  
20 need for the autopsy or dissection under all of the circumstances of  
21 the case. If the petition is denied and no stay is granted by the  
22 court or by the appellate division, the body shall immediately be  
23 released for burial.】\*

1 \*5. Any action brought pursuant to the provisions of this act  
2 shall have preference over all other cases and shall be determined  
3 summarily upon the petition and oral or written proof, if any,  
4 offered by the parties. The court shall permit the autopsy or dis-  
5 section to be performed if it finds that the medical examiner  
6 established a compelling public necessity for the autopsy or dis-  
7 section under all of the circumstances of the case or if the objecting  
8 party or party named by the court fails to swear or affirm that an  
9 autopsy or dissection would be contrary to the deceased's religious  
10 beliefs. If permission to perform an autopsy or dissection is denied  
11 and no stay is granted by the court or by the appellate division, the  
12 body shall immediately be released for burial.\*

1 \*【5.】\* \*6.\* A dissection or autopsy performed pursuant to this act  
2 shall be the least intrusive procedure consistent with the compelling  
3 public necessity.

1 \*【6.】\* \*7.\* This act shall take effect on the thirtieth day after  
2 enactment.

---

**STATEMENT**

Certain individuals object to autopsies or dissections because of religious beliefs. This bill would provide that unless there is a compelling public necessity, no autopsy or dissection would be permitted if a surviving relative or friend of the deceased objected to the procedure on the grounds that an autopsy or dissection was contrary to the deceased's religious beliefs. As defined by the bill, "compelling public necessity" would mean that the dissection or autopsy is essential to the conduct of a criminal investigation or that the discovery of the cause of death is necessary to meet an immediate and substantial threat to the public health.

A3 881 (1983)