

HB

383

SENATE COMMITTEE REPORT

DATE: 4/30/98

FURTHER:

DATE TURNED
IN TO OFFICE: 5-7-98

Judiciary Committee considered CS FOR HOUSE BILL NO. 383(JUD)

"An Act relating to expected deaths that occur at home."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR" _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Alan Samuel</i>	X		
		<i>John Ellis</i>	X		
CHAIR:		CHAIR: <i>Christ Taylor</i>	X		

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
<i>HISS - M.E.</i>	<i>2-25-98</i>	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Alaska State Legislature

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145 Main St., Rm. 223
Kenai, Alaska 99611
907-283-7005
907-283-3075 fax
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Session:
State Capitol
Juneau, AK 99801
907-465-2000
Fax 907-465-2825
907-465-2000

Representative Gary Davis

SECTIONAL ANALYSIS

Committee Substitute for House Bill 383 (Jud)

"An Act relating to expected deaths that occur at home"

Section 1 Adds a new section to AS 12.65, "Death Investigations and Medical Examiners," stating that a peace officer does not have to respond to the scene of expected home deaths provided that the following criteria are met:

- 1) the death was expected to occur due to the person's state of health;
- 2) the death occurred as expected due to the person's state of health;
- 3) a person authorized to determine and pronounce death does so; and
- 4) a form signed by the dead person's physician concerning the physician's expectation that the death would occur is on file with the law enforcement agency for that jurisdiction.

Also states a person is not prohibited from requesting a peace officer to respond to the scene if the person feels a death investigation may be appropriate. Additionally the person is not relieved of the duty to notify the medical examiner and peace officer of a death that is described in AS 12.65.005(a), "Duty to notify state medical examiner."

CSHSB383/SA/3/11/98

Representing House District 8
Copper Center, Fanning River, Hope, Moose Pass, Seward, Sterling, Soldotna

Representative Gary Davis, District 8

SECTIONAL ANALYSIS

Chapter 65. Death Investigations and Medical Examiners.

Section	Section
05. Duty to notify state medical examiner	100. Unclaimed bodies
15. State medical examiner	105. Release of property to temporary custodian
20. Medical death investigations	110. Inventory and disposition of property
25. Post mortem examinations	

Cross references. — For inquests, see AS 18 C.J.S., Coroners, § 1 et seq.; 80 C.J.S., Sheriffs and Constables, § 38.
Collateral references. — 18 Am. Jur. 2d, Coroners or Medical Examiners, § 1 et seq. Liability for wrongful autopsy, 18 ALR4th 858.

Sec. 12.65.005. Duty to notify state medical examiner. (a) Unless the person has reasonable grounds to believe that notice has already been given, a person who attends a death or has knowledge of a death, in addition to notifying a peace officer, shall immediately notify the state medical examiner when the death appears to have

- (1) been caused by unknown or criminal means, during the commission of a crime, or by suicide, accident, or poisoning;
- (2) occurred under suspicious or unusual circumstances or occurred suddenly when the decedent was in apparent good health;
- (3) been unattended by a practicing physician or occurred less than 24 hours after the deceased was admitted to a medical facility;
- (4) been associated with a diagnostic or therapeutic procedure;
- (5) resulted from a disease that constitutes a threat to public health;
- (6) been caused by a disease, injury, or toxic agent resulting from employment;
- (7) occurred in a jail or corrections facility owned or operated by the state or a political subdivision of the state or in a facility for the placement of persons in the custody or under the supervision of the state;
- (8) occurred in a foster home;
- (9) occurred in a mental institution or mental health treatment facility; or
- (10) occurred while the deceased was in the custody of, or was being taken into the custody of, the state or a political subdivision of the state or a public officer or agent of the state or a political subdivision of the state.

(b) A person who attends a death or has knowledge of a death occurring in circumstances other than those enumerated in (a) of this section may notify the state medical examiners of the death if, in the person's opinion, a death investigation under AS 12.65.020 — 12.65.025 may be appropriate.

§ 12.65.010

CODE OF CRIMINAL PROCEDURE

652

(c) The body of a person whose death has been or should be reported to the state medical examiner under this section may not be moved or otherwise disturbed without the permission of the state medical examiner. (§ 2 ch 103 SLA 1996)

Effective dates. — Section 2, ch. 103, SLA 1996, which enacted this section, took effect on September 23, 1996.

Alaska State Legislature

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907 465-8335
907 465-2144

Representative Gary Davis

SPONSOR STATEMENT

Committee Substitute for House Bill 383 (Jud)

"An Act relating to expected deaths that occur at home"

Expected home death describes a circumstance whereby a person has a limited life expectancy and wants to die at home. This person receives care from a home health care or hospice agency. When the individual dies at home, a registered nurse pronounces death and assists the family with contacting the attending physician and funeral director and providing support to the family. Having additional personnel in the home at this time can cause unnecessary stress.

Committee Substitute for House Bill 383(Jud) states it is not necessary for law enforcement to respond to the scene of an expected home death unless requested to do so. Some interpret current law as requiring peace officers to be notified of **and to respond to the scene** of all instances of death. Statutes require the state medical examiner and a peace officer to be notified of deaths that appear to occur under certain circumstances. The types of death include, among others, those caused by unknown or criminal means, those occurring under suspicious or unusual circumstances and those unattended by a practicing physician. In these instances, peace officers **should** respond to the scene of the death upon being notified of its occurrence.

Even though expected home deaths do not fall under any of the above categories, varying interpretations of the phrase "unattended by a practicing physician" have resulted in them being handled differently throughout the state. An expected home death is not "unattended" regardless of whether the physician was physically present at the time of death. In common medical and legal terminology, a patient is "attended" by a physician when that patient is receiving treatment and under the care and supervision of a physician.

Committee Substitute for House Bill 383(Jud) states that peace officers do not need to respond to the scene of an expected home death provided that certain criteria are met. A form signed by the person's physician concerning the expectation that the death would occur due to the person's state of health must be on file with the local law enforcement agency. The death must occur at the dead person's home as expected, and a person authorized to determine and pronounce death must do so. If these criteria are met, a peace officer need not respond to the scene of the death.

The legislation specifies, however, that a person is not prohibited from requesting a peace officer to respond if a death investigation may be appropriate. Nor does it relieve a person of the duty of notifying the medical examiner and peace officer if the death occurs in a manner other than expected.

Death at home can be a natural, smooth occurrence, and removing unnecessary steps and personnel from the situation reduces the trauma to the family. Committee Substitute for House Bill 383(Jud) clarifies statutes to allow this to happen without undue intrusion, while still providing that the interests of the state and the deceased are protected.

Representing House District 8

Cooper Landing, Fanny River, Hope, Moose Pass, Seward, Sterling, Seldovia

Representative Gary Davis 1998-1999

FISCAL NOTE

No: 1

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Bill Version: HB 383
(H) Publish Date: 2/27/98

Revision Date: _____ Department Affected: Dept of Health & Soc
 Title: An Act relating to expected deaths BRU: Services
that occur at home or in a health care facility
 Sponsor: Rep G. Davis Component: Medical Examiner
 Requestor: HL&C

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	0	0	0	0	0	C
TRAVEL	0	0	0	0	0	C
CONTRACTUAL	0	0	0	0	0	C
SUPPLIES	0	0	0	0	0	C
EQUIPMENT	0	0	0	0	0	C
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	C

CAPITAL	0	0	0	0	0	C
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REVENUE FUND SOURCE	0	0	0	C	0	C
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	C	0	C
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	0	0	0	C	0	C

POSITIONS:

FULL-TIME	0	0	0	C	C	C
PART-TIME	0	0	0	C	C	C
TEMPORARY	0	0	0	C	C	C

Estimate of current year impact: NONE

ANALYSIS: (Attach a separate page if necessary)

Prepared by: House Labor and Commerce Committee Phone: 465-4954
 Division: _____ Date: 2/25/98

Approved by: Representative Norman Rokeberg, Chair
 Agency: House Labor and Commerce Committee Date: 2/25/98

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OK 3, Gov., & Interested Agency(ies).

Alaska State Legislature

Interim:

145 Main St. Lp., 223
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Session:

State Capitol
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Representative Gary Davis

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Representing House District 8

Cooper Landing, Funny River, Hope, Moose Pass, Seward, Sterling, Soldotna

Representative_Gary_Davis@legis.state.ak.us

Alaska State Legislature

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CSHSB383/SA/3/11/98

*Representing House District 8
Cooper Landing, Funny River, Hope, Moose Pass, Seward, Sterling, Soldotna*

Representative_Gary_Davis@legis.state.ak.us

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SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
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TOTAL OPERATING	0	0	0	0	0	0
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FULL-TIME	0	0	0	0	0	0
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Estimate of current year impact: NONE

ANALYSIS: (Attach a separate page if necessary)

Prepared by: House Labor and Commerce Committee Phone: 465-4954
 Division: _____ Date: 2/25/98

Approved by: Representative Norman Hokeberg, Chair
 Agency: House Labor and Commerce Committee Date: 2/25/98

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Chapter 65. Death Investigations and Medical Examiners.

Section

- 05. Duty to notify state medical examiner
- 15. State medical examiner
- 20. Medical death investigations
- 25. Post mortem examinations

Section

- 100. Unclaimed bodies
- 105. Release of property to temporary custodian
- 110. Inventory and disposition of property

Cross references. — For inquests, see AS 09.55.062 — 09.55.069.

Collateral references. — 18 Am. Jur. 2d, Coroners or Medical Examiners, § 1 et seq.

18 C.J.S., Coroners, § 1 et seq.; 80 C.J.S., Sheriffs and Constables, § 38.

Liability for wrongful autopsy, 18 ALR4th 858.

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§ 12.65.010

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