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SB-1163 Postmortem examination or autopsy: unidentified body or human remains: medical examiner: attending physician and surgeon. (2017-2018)

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Senate Bill No. 1163

CHAPTER 936

An act to amend Section 27521 of the Government Code, relating to autopsies.

[Approved by Governor September 29, 2018. Filed with Secretary of State September 29, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1163, Galgiani. Postmortem examination or autopsy: unidentified body or human remains: medical examiner: attending physician and surgeon.

Existing law makes it the duty of a coroner to inquire into and determine the circumstances, manner, and cause of deaths under prescribed conditions, including deaths under such circumstances as to afford a reasonable ground to suspect that the death was caused by the criminal act of another or if the surviving spouse of the deceased requests the coroner to do so in writing. Existing law makes a postmortem examination or autopsy conducted at the discretion of a coroner, medical examiner, or other agency upon an unidentified human body or human remains subject to certain specified provisions of law.

This bill would authorize an agency tasked with the exhumation of a body or skeletal remains of a deceased person that has suffered significant deterioration or decomposition, where the circumstances surrounding the death afford a reasonable basis to suspect that the death was caused by or related to the criminal act of another, to perform the exhumation in consultation with a board-certified forensic pathologist and would authorize that board-certified forensic pathologist to suggest to the agency tasked with an exhumation to consider retaining the services of an anthropologist, as specified.

Existing law requires a postmortem examination or autopsy to include certain procedures, including, but not limited to, a dental examination that is authorized to be conducted by a qualified dentist as determined by the coroner. Existing law authorizes the postmortem examination or autopsy of the unidentified body or remains to include full body X-rays.

This bill would instead provide that the dental examination is authorized to be conducted by a qualified dentist as determined by the coroner or medical examiner. The bill would additionally authorize the postmortem examination or autopsy of the unidentified body or remains to include computed tomography scans.

Existing law, unless the coroner, medical examiner, or other agency performing a postmortem examination or autopsy determines the body of the unidentified deceased person has suffered significant deterioration or decomposition, prohibits the jaws from being removed until immediately before the body is cremated or buried and requires the coroner, medical examiner, or other agency to retain the jaws and other tissue samples for a specified period of time.

This bill would require the coroner, medical examiner, or other agency to, instead, retain the appropriate samples of tissue and bone for that specified period of time.

Existing law prohibits the body of an unidentified deceased person from being cremated or buried until the jaws and other tissue samples are retained for future possible use.

This bill would eliminate that prohibition and would prohibit the unidentified body or human remains from being cremated or buried until the appropriate samples of tissue and bone are retained for future possible use.

By placing new requirements on local governments for performing postmortem examinations or autopsies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 27521 of the Government Code is amended to read:

27521. (a) A postmortem examination or autopsy conducted at the discretion of a coroner, medical examiner, or other agency upon an unidentified body or human remains is subject to this section.

(b) Any agency tasked with the exhumation of a body or skeletal remains of a deceased person that has suffered significant deterioration or decomposition, where the circumstances surrounding the death afford a reasonable basis to suspect that the death was caused by or related to the criminal act of another, may perform the exhumation in consultation with a board-certified forensic pathologist certified by the American Board of Pathology. The board-certified forensic pathologist may suggest that the agency tasked with an exhumation pursuant to this subdivision consider retaining the services of an anthropologist in order to conduct the exhumation with the highest dignity for potential victims, the least damage to a potential crime scene, and the best chance for victim recovery and identification.

(c) A postmortem examination or autopsy shall include, but shall not be limited to, the following procedures:

(1) Taking of all available fingerprints and palm prints.

(2) A dental examination consisting of dental charts and dental X-rays of the deceased person's teeth, which may be conducted on the body or human remains by a qualified dentist as determined by the coroner or medical examiner.

(3) The collection of tissue, including a hair sample, or body fluid samples for future DNA testing, if necessary.

(4) Frontal and lateral facial photographs with the scale indicated.

(5) Notation and photographs, with a scale, of significant scars, marks, tattoos, clothing items, or other personal effects found with or near the body.

(6) Notations of observations pertinent to the estimation of the time of death.

(7) Precise documentation of the location of the remains.

(d) The postmortem examination or autopsy of the unidentified body or remains may include full body X-rays or computed tomography scans.

(e) (1) At the sole and exclusive discretion of a coroner, medical examiner, or other agency tasked with performing an autopsy pursuant to Section 27491, an electronic image system, including, but not limited to, an X-ray machine or computed tomography scanning system, may be used to fulfill the requirements of subdivision (c) or of a postmortem examination or autopsy required by other law, including, but not limited to, Section 27520.

(2) This subdivision does not impose a duty upon any coroner, medical examiner, or other agency tasked with performing autopsies pursuant to Section 27491 to use an electronic image system to perform autopsies or to acquire the capability to do so.

(3) A coroner, medical examiner, or other agency tasked with performing an autopsy pursuant to Section 27491 shall not use an electronic imaging system to conduct an autopsy in any investigation where the circumstances surrounding the death afford a reasonable basis to suspect that the death was caused by or related to the criminal act of another and it is necessary to collect evidence for presentation in a court of law. If the results of an autopsy performed using electronic imaging provides the basis to

suspect that the death was caused by or related to the criminal act of another, and it is necessary to collect evidence for presentation in a court of law, then a dissection autopsy shall be performed in order to determine the cause and manner of death.

(4) An autopsy may be conducted using an X-ray or computed tomography scanning system notwithstanding the existence of a certificate of religious belief properly executed in accordance with Section 27491.43.

(f) The coroner, medical examiner, or other agency performing a postmortem examination or autopsy shall prepare a final report of investigation in a format established by the Department of Justice. The final report shall list or describe the information collected pursuant to the postmortem examination or autopsy conducted under subdivision (c).

(g) The unidentified body or human remains shall not be cremated or buried until the appropriate samples of tissue and bone are retained for future possible use.

(h) For an unidentified body or human remains, appropriate samples of tissue and bone shall be taken before the body or human remains are cremated or buried. The types of samples of tissue and bone that are taken shall be determined by the coroner or medical examiner. The samples obtained, the method of procurement or dissection of those samples, and the handling, processing, and storage of samples shall be within, and guided by, the generally accepted standards of forensic pathology and death investigation.

(i) The coroner, medical examiner, or other agency responsible for a postmortem examination or autopsy shall retain the appropriate samples of tissue and bone for one year after a positive identification is made, and no civil or criminal challenges are pending, or indefinitely.

(j) If the coroner, medical examiner, or other agency performing a postmortem examination or autopsy with the aid of the dental examination and any other identifying findings is unable to establish the identity of the body or human remains, the coroner, medical examiner, or other agency shall submit dental charts and dental X-rays of the unidentified deceased person to the Department of Justice on forms supplied by the Department of Justice within 45 days of the date the body or human remains were discovered.

(k) If the coroner, medical examiner, or other agency performing a postmortem examination or autopsy with the aid of the dental examination and other identifying findings is unable to establish the identity of the body or human remains, the coroner, medical examiner, or other agency shall submit the final report of investigation to the Department of Justice within 180 days of the date the body or human remains were discovered. The final report of investigation shall list or describe the information collected pursuant to the postmortem examination or autopsy and any anthropology report, fingerprints, photographs, and autopsy report.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.