

A BILL

24-203

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the Establishment of the Office of the Chief Medical Examiner Act of 2000 to permit the Office of the Chief Medical Examiner to transfer a decedent’s personal property and effects to the decedent’s next-of-kin or funeral services establishment, to allow the Office of the Chief Medical Examiner to dispose of property found on or in the custody of the decedent that has no apparent value or poses a risk to health or safety, to grant access to records and files maintained by the Office of the Chief Medical Examiner to relevant District and federal agencies, to provide that information contained in external examination and autopsy reports is a public record under the Freedom of Information Act of 1976, to permit persons to directly obtain an external examination or autopsy report from the Office of the Chief Medical Examiner, and to designate certain photographs, negatives, videos, prints, and other images in the Office of the Chief Medical Examiner’s records and files as confidential and only subject to disclosure in limited circumstances.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Medical Examiner Records Privacy Amendment Act of 2022”.

Sec. 2. The Establishment of the Office of the Chief Medical Examiner Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 5-1401 *et seq.*), is amended as follows:

(a) Section 2909(b) (D.C. Official Code § 5-1408(b)) is amended to read as follows:

“(b) A law enforcement officer, a medical examiner, or a medicolegal investigator may take possession of all property of value found on or in the custody of the decedent. If possession is taken of the property, the law enforcement officer, medical examiner, or medicolegal

ENGROSSED ORIGINAL

32 investigator shall make an exact inventory of the property and deliver it to the Property Clerk of
33 the Metropolitan Police Department; except, that the CME may instead transfer the property to the
34 person with the right to control the disposition of the remains of the decedent under section 14 of
35 the District of Columbia Funeral Services Regulatory Act of 1984, effective May 22, 1984 (D.C.
36 Law 5-84; D.C. Official Code § 3-413), or to the funeral services establishment that has or takes
37 possession of the remains of the decedent. The CME may dispose of, in any reasonable manner,
38 property of no apparent value or property deemed to be a hazard to health or safety. The Mayor
39 shall issue regulations concerning the transfer of any such property from the OCME.”.

40 (b) Section 2913 (D.C. Official Code § 5-1412) is amended as follows:

41 (1) Subsection (b) is amended to read as follows:

42 “(b) Except as provided in subsection (c-2)(3) of this section, the records and files
43 maintained pursuant to subsection (a) of this section shall be open, upon request, to inspection by
44 any person designated by the Mayor, the Office of the United States Attorney for the District of
45 Columbia, the Metropolitan Police Department or another law enforcement agency, a government
46 health or safety organization, or a fatality review committee or board of the District government
47 when such inspection is necessary for the discharge of its official duties. Upon request by such
48 person, the CME shall promptly deliver to such person copies of records relating to the deaths as
49 to which further investigation may be advisable.”.

50 (2) Subsection (c) is repealed.

51 (3) New subsections (c-1) and (c-2) are added to read as follows:

52 “(c-1) An external examination or autopsy report of a decedent in the CME’s records and
53 files:

54 “(1) Shall be a public record under the Freedom of Information Act of 1976,
55 effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*), only as to the
56 following information:

57 “(A) Name of the decedent;

58 “(B) Race of the decedent;

59 “(C) Sex of the decedent;

60 “(D) Age of the decedent;

61 “(E) Cause of death;

62 “(F) Manner of death;

63 “(G) Place of death;

64 “(H) Case identification number;

65 “(I) Date of examination; and

66 “(J) Name of the examiner performing the external examination or autopsy;

67 and

68 “(2) May be obtained directly from the CME by the following persons, without
69 those persons being required to make a request for records pursuant to section 202(a) of the
70 Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official

ENGROSSED ORIGINAL

71 Code § 2-532(a)), after written request and payment of such fees as may be prescribed by
72 regulations issued pursuant to section 2918:

73 “(A) A person with the right to control the disposition of the decedent’s
74 remains pursuant to section 14 of the District of Columbia Funeral Services Regulatory Act of
75 1984, effective May 22, 1984 (D.C. Law 5-84; D.C. Official Code § 3-413);

76 “(B) A person without the right to control the disposition of the decedent’s
77 remains pursuant to section 14 of the District of Columbia Funeral Services Regulatory Act of
78 1984, effective May 22, 1984 (D.C. Law 5-84; D.C. Official Code § 3-413), if:

79 “(i) The person has the written consent of a person having the right
80 to control the disposition of the decedent’s remains pursuant to the Funeral Services Regulatory
81 Act of 1984, effective May 22, 1984 (D.C. Law 5-84; D.C. Official Code § 3-413); or

82 “(ii) The person has the authority to receive the external examination
83 or autopsy report under a properly issued subpoena in a matter pending before a court having
84 personal jurisdiction over the CME, if a copy of the subpoena has been properly served on the
85 person with the right to control the disposition of the decedent’s remains pursuant to section 14 of
86 the District of Columbia Funeral Services Regulatory Act of 1984, effective May 22, 1984 (D.C.
87 Law 5-84; D.C. Official Code § 3-413); or

88 “(C) A healthcare provider, healthcare facility, or medical peer review
89 committee in furtherance of a review of the decedent’s care.

90 “(c-2) A photograph, negative, video, print or other image of a decedent, or any portion of
91 the body of a decedent, in the CME’s records and files, shall not be disclosed by the CME except
92 for:

93 “(1) Use or potential use in a criminal action or proceeding that relates to the
94 decedent’s death;

95 “(2) Use or potential use in a civil action or proceeding that relates to the decedent’s
96 death, pursuant to:

97 “(A) The written authorization of a person with the right to control the
98 disposition of the decedent’s remains pursuant to section 14 of the District of Columbia Funeral
99 Services Regulatory Act of 1984, effective May 22, 1984 (D.C. Law 5-84; D.C. Official Code §
100 3-413); or

101 “(B) A valid subpoena;

102 “(3) A purpose necessary to further an investigation by a person identified in
103 subsection (b) of this section; or

104 “(4) Use in medical or scientific education or research where the identity of the
105 decedent is kept confidential.”.

106 (4) A new subsection (e) is added to read as follows:

107 “(e) For the purposes of this section, the term “government health or safety organization”
108 means a state or federal agency responsible for protecting health or safety, including the Centers
109 for Disease Control and Prevention, the Consumer Product Safety Commission, the Federal

110 Aviation Administration, the National Transportation Safety Board, and the Occupational Safety
111 and Health Administration.”.

112 Sec. 3. Fiscal impact statement.

113 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
114 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
115 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

116 Sec. 4. Effective date.

117 This act shall take effect following approval by the Mayor (or in the event of veto by the
118 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
119 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
120 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
121 Columbia Register.