

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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

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

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

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

(2) Subsection (c) is repealed.

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

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

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

“(A) Name of the decedent;

“(B) Race of the decedent;

“(C) Sex of the decedent;

“(D) Age of the decedent;

“(E) Cause of death;

“(F) Manner of death;

“(G) Place of death;

“(H) Case identification number;

“(I) Date of examination; and

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

“(2) May be obtained directly from the CME by the following persons, without those persons being required to make a request for records pursuant to section 202(a) of the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-532(a)), after written request and payment of such fees as may be prescribed by regulations issued pursuant to section 2918:

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

“(B) A person without the right to control the disposition of the decedent’s remains pursuant to section 14 of the Funeral Services Regulatory Act if:

“(i) The person has the written consent of a person having the right to control the disposition of the decedent’s remains pursuant to section 14 of the Funeral Services Regulatory Act; or

“(ii) The person has the authority to receive the external examination or autopsy report under a properly issued subpoena in a matter pending before a court having personal jurisdiction over the CME, if a copy of the subpoena has been properly served on the person with the right to control the disposition of the decedent’s remains pursuant to section 14 of the Funeral Services Regulatory Act; or

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

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

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

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

“(A) The written authorization of a person with the right to control the disposition of the decedent’s remains pursuant to section 14 of the Funeral Services Regulatory Act of 1984; or

“(B) A valid subpoena;

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

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

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

“(e) For the purposes of this section, the term “government health or safety organization” means a state or federal agency responsible for protecting health or safety, including the Centers for Disease Control and Prevention, the Consumer Product Safety Commission, the Federal Aviation Administration, the National Transportation Safety Board, and the Occupational Safety and Health Administration.”.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as

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provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia