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FISCAL IMPACT STATEMENT

LS 7726

BILL NUMBER: HB 1503

NOTE PREPARED: Apr 10, 2007

BILL AMENDED: Apr 10, 2007

SUBJECT: Coroners and Child Deaths.

FIRST AUTHOR: Rep. Orentlicher

FIRST SPONSOR: Sen. C. Lawson

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Procedures for the Death of a Child:* This bill requires a coroner to make an autopsy report available to the Department of Child Services or fatality review teams. The bill allows a local child fatality review team or the statewide Child Fatality Review Committee to subpoena documents regarding a death that the team is reviewing. The bill requires a coroner to notify a local or the statewide child fatality review team of: (1) certain deaths of children; and (2) a possible SIDS death. It also requires a Certified Child Death Pathologist (CCDP) to: (1) consult with the coroner; (2) conduct certain autopsies; and (3) perform certain duties. The bill also requires a coroner to consult with a CCDP to determine if an autopsy is necessary if the person who died is less than 18 years of age. The bill provides procedures if a coroner and CCDP do not agree if an autopsy is necessary of a person less than 18 years of age.

The bill provides that a coroner shall file a certificate of death with a county health department within a specified time frame. The bill also requires a coroner to follow the Uniform Anatomical Gift Act concerning organ and tissue procurement.

Fee Increase: The bill increases the Coroners Continuing Education Fee to \$1.75 and raises the fee by \$0.25 in 2013 and every five years thereafter.

Indiana State Department of Health Requirements: This bill requires the ISDH to adopt rules: (1) for hospitals and physicians to identify suspicious deaths of children.

Medical Licensing Board Requirements: The bill requires the Medical Licensing Board to certify a child death pathologist.

The bill requires a coroner to obtain court approval to make an autopsy report confidential.

Criminal penalties: The bill makes it a Class B infraction if a person knowingly or intentionally fails to contact a coroner or law enforcement agency of the discovery of a body of a child less than one year old who has died. The bill also changes knowingly or intentionally failing to notify a coroner or law enforcement agency of the discovery of the body of a person who died from violence or in an apparently suspicious, unusual, or unnatural manner from a Class B infraction to a Class A misdemeanor if it is done with intent to hinder a criminal investigation. It makes it a Class D felony for a person, with intent to hinder a criminal investigation and without the permission of a coroner or a law enforcement officer, to knowingly or intentionally alter the scene of death of a person who has died from violence or in an apparently suspicious, unusual, or unnatural manner (current law provides that it is a Class D felony if a person moves or transports the body).

The bill repeals provisions: (1) allowing a coroner to issue a warrant for the arrest of an individual whom the coroner is charging with a felony; and (2) requiring a coroner or a coroner's representative to attend meetings of the commission on forensic sciences when invited. It also removes a provision allowing a coroner to employ the services of the medical examiner system. It makes conforming amendments.

Effective Date: July 1, 2007.

Explanation of State Expenditures: *State Department of Health Requirements:* The ISDH is required by the bill to adopt rules for hospitals and physicians to identify suspicious deaths of children who are less than 18 years of age. This requirement should be accomplished within the current level of resources available to the ISDH

(Revised) Medical Licensing Board Requirements: The Medical Licensing Board (Board) is required to adopt rules to certify a child death pathologist and to require special training to conduct autopsies on child fatalities. The bill specifies that a child death pathologist must be an American Board of Pathology certified pathologist that has received specialized training or who is a forensic pathologist. The Medical Licensing Board is required to certify child death pathologists. To maintain certification, the child death pathologists who are not forensic pathologists, must annually complete training concerning new procedures for child death investigations. This program is anticipated to be applicable to fewer than 25 individuals; the certification activities may be accomplished within the Board's current level of resources.

(Revised) The bill also requires the Board to either approve an annual training program or provide a training program for certified child death pathologists concerning new procedures for child death investigations. The cost of this provision will be dependent on what is available for appropriate training each year from other sources. The Board may be required to provide the training at an undetermined cost.

Procedures for the Death of a Child- Child Fatality Review Teams: The bill provides that the Statewide Child Fatality Review Committee or a local child fatality review team may subpoena records from hospitals, physicians, coroners, and mental health professionals regarding a death the Committee or local team is investigating. The bill requires that county coroners shall notify the local child fatality review team or the Statewide Child Fatality Review Committee of each death of a person less than 18 years of age. The bill provides a procedure to be followed to determine if an autopsy is necessary in the circumstance of the death of a person under 18 years of age. If an autopsy is necessary, a certified child death pathologist is required to conduct the autopsy procedure. The bill further requires a coroner to make a full copy of an autopsy report to the Department of Child Services, the Statewide Child Fatality Review Team or a local child fatality

review team regarding deaths that the teams may be investigating.

The bill requires that a child that died in an apparently suspicious, unusual, or unnatural manner and was less than three years of age at the time of death must have an autopsy performed by a certified child death pathologist at county expense. The bill specifies that a coroner may not certify the cause of death until an autopsy is performed. The bill specifies what parties may receive copies of the autopsy results.

(Revised) *Criminal Penalties*: The bill expands the circumstances relating to a Class D felony from: "knowingly or intentionally, without the permission of a coroner or a law enforcement officer moving or transporting a body from the scene of death" to language that relates to the alteration of the scene of death. There are no data available to indicate how many offenders may be sentenced for altering the scene of death without the necessary authorization, a Class D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Penalty Provision*: The bill provides that a person who knowingly or intentionally fails to immediately notify the coroner or a law enforcement agency of the discovery of a body of a person less than one year of age who has died commits a Class B Infraction. The maximum judgment for a Class B infraction is \$1,000, which would be deposited in the state General Fund. However, any additional revenue is likely to be small.

(Revised) *Penalty Provision, Class A Misdemeanor*: The bill increases the penalty for failing to notify the coroner or local law enforcement of the discovery of the body of a person who died from violence or in an apparently suspicious, unusual, or unnatural manner from a Class B infraction to a Class A misdemeanor. This bill potentially increases revenue to the Common School Fund, but could reduce revenue that is deposited in the state General Fund. However, any change in revenue is likely to be small. Currently, the maximum judgment for a Class B infraction is \$1,000, which is deposited into the state General Fund, while the maximum fine for a Class A misdemeanor is \$5,000, which is deposited into the Common School Fund. The state General Fund may receive additional court fee revenue. However, the amount is likely to be small.

(Revised) *Penalty Provision, Class D Felony*: If additional court cases occur as a result of the change, and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

(Revised) *Coroner's Continuing Education Fee*: The bill increases the Coroner's Continuing Education Fee from \$1 to \$1.75 for each copy of a certificate of death issued by a local health department. This provision is estimated to increase revenue to the Coroner's Training and Continuing Education Fund by an estimated annual range of \$278,000 to \$303,000. After July 1, 2013, the fee would increase by \$0.25 every 5 years.

(Revised) *Fee Increase Background Information*: If a local health department makes a charge for a certificate of death, a \$1 Coroner's Continuing Education Fee must be added to the established rate. The collected fees are transferred semiannually to the Treasurer of State for distribution to the nonreverting Coroner's Training and Continuing Education Fund. Revenues and Expenses for the Fund are shown below.

FY	Revenue	Expense
2002	\$330,472	\$430,982
2003	\$304,637	\$434,959
2004	\$459,808	\$445,352
2005	\$353,624	\$441,417
2006	\$403,943	\$434,1199

Explanation of Local Expenditures: (Revised) *Penalty Provision*: Local expenditures could increase if offenders are incarcerated in local jails instead of being only fined or detained in county jails prior to their court hearings. However, any cost increase is likely to be small. A Class A misdemeanor is punishable by up to one year in jail. The average cost per day is approximately

Explanation of Local Revenues: *Penalty Provision*: If additional court actions are filed and a judgment is entered, local governments would receive revenue from court fees. However, any additional revenue is likely to be small.

State Agencies Affected: State Department of Health, Department of Child Services, Medical Licensing Board, Professional Licensing Agency, Coroner's Training Board.

Local Agencies Affected: County coroners, trial courts, local law enforcement agencies.

Information Sources: State Department of Health, Coroner's Training Board.

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