

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025**

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HOUSE BILL 164

Short Title: Parental Consent to Release Child Autopsies. (Public)

Sponsors: Representatives Balkcom, Campbell, Carson Smith, and Stevens (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, State and Local Government, if favorable, Rules, Calendar, and Operations of the House

February 24, 2025

A BILL TO BE ENTITLED
AN ACT ESTABLISHING A PARENTAL CONSENT REQUIREMENT FOR THE
DISCLOSURE OR RELEASE OF CHILD AUTOPSY INFORMATION COMPILED OR
PREPARED BY THE OFFICE OF THE CHIEF MEDICAL EXAMINER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-385 is amended by adding new subsections to read:

"(d1) Any records, worksheets, reports, photographs, tests, or analyses compiled, prepared, or conducted by the Office of the Chief Medical Examiner, a pathologist designated by the Chief Medical Examiner, a county medical examiner appointed under G.S. 130A-382, an investigating medical examiner, or an autopsy center in connection with the death of a child who was under 18 years of age at the time of death, including any autopsy photographs or video or audio recordings, are confidential and may be disclosed or released only with the prior written consent of the deceased child's parent or guardian or a person standing in loco parentis to the deceased child as follows:

(1) The custodian of the finalized autopsy report may release a copy at a time and location determined by the custodial agency to a personal representative of the decedent's estate to enable the personal representative to fulfill his or her duties under the law.

(2) The Office of the Chief Medical Examiner, a pathologist designated by the Chief Medical Examiner, a county medical examiner appointed under G.S. 130A-382, an investigating medical examiner, or an autopsy center is not prohibited from disclosing or releasing information or reports when necessary to address public health or safety concerns; for public health purposes, including public health surveillance, investigations, interventions, and evaluations; to facilitate research; to comply with reporting requirements under State or federal law or in connection with State or federal grants; or to comply with any other duties imposed by law.

Any person who willfully and knowingly discloses or releases confidential materials in connection with the death of a child who was under 18 years of age at the time of death, in violation of this subsection, or who willfully and knowingly possesses or disseminates confidential materials that were disclosed or released in violation of this subsection, is guilty of a Class 1 misdemeanor; provided, however, that more than one occurrence of disclosure, release, possession, or dissemination of the same item by the same person is not a separate offense. As



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used in this subsection, the term "disclose" means the act of making materials designated as confidential under this subsection available for viewing or listening by a person or entity upon request, at a time and location chosen by the custodial agency, and the term "release" means the act of the custodial agency in providing a copy of materials designated confidential under this subsection.

(d2) In the event a deceased child's parents or guardian or person standing in loco parentis to the deceased child withholds the consent required for disclosure or release under subsection (d1) of this section, a person or entity seeking disclosure or release of the materials may commence a special proceeding in the superior court of the county where the death that is the subject of the materials occurred to obtain a court order for disclosure or release of the materials. The court may conduct an in-camera review of the materials. Upon a showing of good cause, a superior court judge may issue an order authorizing the disclosure or release of the materials and may prescribe any restrictions or stipulations that the superior court judge deems appropriate. The petitioner shall provide reasonable notice of the commencement of the special proceeding and reasonable notice of the opportunity to be present and heard at any hearing on the matter in accordance with Rule 5 of the Rules of Civil Procedure. The notice shall be provided, in writing, to the deceased child's parents or guardian, or to the person standing in loco parentis to the deceased child; the Office of the Chief Medical Examiner; the district attorney of the county in which the death occurred; and the personal representative of the estate of the deceased, if any. In determining good cause, the judge shall consider whether the disclosure or release is necessary for the public evaluation of governmental performance, the seriousness of the intrusion into the family's right to privacy, whether the requested disclosure or release is the least intrusive means available, the need to withhold the records to facilitate the investigation or prosecution of criminal offenses, the rights of the defendant in any ongoing criminal investigation or prosecution, the public interest in having access to the records, and the availability of similar information in other public records, regardless of form. A party aggrieved by an order of the superior court authorized by this subsection may appeal in accordance with Article 27 of Chapter 1 of the General Statutes."

SECTION 2. G.S. 130A-389.1 reads as rewritten:

"§ 130A-389.1. Photographs and video or audio recordings made pursuant to autopsy.

(a) Except as otherwise provided by law, ~~law~~ and excluding any confidential materials in connection with the death of a child who was under 18 years of age at the time of death that a parent or guardian or person standing in loco parentis elects to protect from disclosure or release under G.S. 130A-385(d1), any person may inspect and examine original photographs or video or audio recordings of an autopsy performed pursuant to G.S. 130A-389(a) at reasonable times and under reasonable supervision of the custodian of the photographs or recordings. Except as otherwise provided by this section, no custodian of the original recorded images shall furnish copies of photographs or video or audio recordings of an autopsy to the public. For purposes of this section, the Chief Medical Examiner shall be the custodian of all autopsy photographs or video or audio recordings unless the photographs or recordings were taken by or at the direction of an investigating medical examiner and the investigating medical examiner retains the original photographs or recordings. ~~If Except in cases in which the materials are protected from disclosure or release under G.S. 130A-385(d1), if the investigating medical examiner has retained the original photographs or recordings, then the investigating medical examiner is the custodian of the photographs or video or audio recordings and must shall~~ allow the public to inspect and examine them in accordance with this subsection.

...

(d) A person who is denied access to copies of photographs or video or audio recordings, or who is restricted in the use the person may make of the photographs or video or audio recordings under this section, may commence a special proceeding in accordance with Article 33 of Chapter 1 of the General Statutes. Upon a showing of good cause, the clerk may issue an order

1 authorizing the person to copy or disclose a photograph or video or audio recording of an autopsy
2 and may prescribe any restrictions or stipulations that the clerk deems appropriate. In determining
3 good cause, the clerk shall consider whether the disclosure is necessary for the public evaluation
4 of governmental performance; the seriousness of the intrusion into the family's right to privacy
5 and whether the disclosure is the least intrusive means available; and the availability of similar
6 information in other public records, regardless of form. In all cases, the viewing, copying,
7 listening to, or other handling of a photograph or video or audio recording of an autopsy shall be
8 under the direct supervision of the Chief Medical Examiner or the Chief Medical Examiner's
9 designee. A party aggrieved by an order of the clerk may appeal to the appropriate court in
10 accordance with Article 27A of Chapter 1 of the General Statutes. This subsection does not apply
11 to autopsy photographs or video or audio recordings of a deceased child that was under 18 years
12 of age at the time of death that a parent or guardian or person standing in loco parentis elects to
13 protect from disclosure or release under G.S. 130A-385(d1). Autopsy photographs or video or
14 audio recordings of a deceased child that was under 18 years of age at the time of death may be
15 disclosed or released only with the prior consent of the deceased child's parent or guardian or
16 person standing in loco parentis to the deceased child or in accordance with G.S. 130A-385(d2).
17"

18 **SECTION 3.** G.S. 132-1.8 reads as rewritten:

19 **"§ 132-1.8. Confidentiality of photographs and video or audio recordings made pursuant**
20 **to autopsy.**

21 Except as otherwise provided in G.S. 130A-389.1, a photograph or video or audio recording
22 of an official autopsy is not a public record as defined by G.S. 132-1. However, the text of an
23 official autopsy report, including any findings and interpretations prepared in accordance with
24 G.S. 130A-389(a), is a public record and fully accessible by the public. For purposes of this
25 section, an official autopsy is an autopsy performed pursuant to ~~G.S.~~
26 ~~130A-389(a).~~ G.S. 130A-389(a) on a person who was 18 years of age or older at the time of
27 death."

28 **SECTION 4.** This act becomes effective October 1, 2025.