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House Committee on State and Local Government
HB 146
Opponent Testimony, Written Only
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HB 146 would require a court approve a coroner's change in the cause of death on a death certificate. Instead of trusting the forensic pathologist, a trained physician and scientist, to review and recognize scientific errors, it is proposed that the prosecutor and a judge (both elected officials and neither of whom is required to have a day of scientific training to be licensed) the ultimate say in what the forensic pathologist can find.

Not only does HB 146 put the decision in the hands of those less qualified to recognize and understand scientific error, the bill is completely unnecessary. Changing a cause of death is incredibly rare. Instead of fighting about whether a coroner should be able to do so, we should, as a society, focus great attention on these cases. These cases are the errors. These cases almost always mean one of two things. First, when a coroner retracts a homicide finding either an innocent person is being or has been prosecuted. Or second, when a coroner changes a non-homicide finding to homicide results in a case now being prosecuted.

In either situation, the case ends up in front of a court. Either the innocent person will bring a case to be released or the prosecutor will indict a person for a homicide. In the course of these cases, the reasons for the change in the coroner's finding will be examined and put under cross-examination. If there is professional disagreement, one side or the other will bring another qualified forensic pathologist to explain the scientific disagreement.

What will not and should not happen is the court or prosecutor becoming the decider of what findings the forensic pathologist can make. And that makes sense. The justice system currently is doing what it is supposed to do – providing an arena for adversarial positions to be resolved based on facts brought before it. What it should not do is tell forensic pathologists what those facts may or may not be. Coroners apply current, evidence based scientific principles to determine why and how someone died. Courts determine if someone is responsible.

If seeking justice is our goal, HB146 does not move us closer to that goal. Rather than fighting about who can or cannot tell forensic pathologists how to do his or her job, we should treat these rare instances for what they are – markers of error in our justice system. In the rare and infrequent cases when a coroner's finding is changed, we should place extra emphasis on making sure these cases are heard in court on the facts. We should not add a layer of litigation that places forensic pathology findings in the hands of those with no forensic pathology training.