

House State & Local Government Committee
HB 146 - Ohio State Coroners Association (OSCA)
Interested Party Testimony
David Corey, MBA
OSCA Executive Director
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Chairwoman Anielski, Vice Chairman Hambley and members of the House State & Local Government Committee. Thank you for the opportunity today to express OSCA's viewpoints on HB 146 as an interested party.

While there may have been issues with the way the case was handled that prompted this piece of legislation to be introduced, please know that it was a very unique case. Ohio's elected County Coroners have to change death certificates, due to a number of circumstances. However, to subject County Coroners to the provisions outlined in HB 146 is unnecessary especially due to provisions already contained in Section 313 of the Ohio Revised Code and, as you will see, will create unintended consequences that will inflict many families with delays and add additional grief.

Let us first draw your attention to Section 313.19 of the Ohio Revised Code, which has the same affect that HB 146 is purported to address.

313.19 states under the title, "Coroner's verdict the legally accepted cause of death."
"The cause of death and the manner and mode in which the death occurred, as delivered by the coroner and incorporated in the coroner's verdict and in the death certificate filed with the division of vital statistics, shall be the legally accepted manner and mode of death, **unless the court of common pleas of the county in which the death occurred, after a hearing, directs the coroner to change his decision as to such cause and manner and mode of death.**"
(Emphasis added in bold.)

So, as you can see, there is already a method in which the family or prosecutor or anyone else (because the Revised Code is not specific) can request a hearing in the court of common pleas, to have the judge order a death certificate changed.

Let us explain further. In Ohio, most coroner death certificates are signed expeditiously and amended/changed afterward in order for families to obtain burial permits in a timely manner (within a few days), to begin settling estate issues and to begin settling insurance claims.

If HB 146 becomes law, coroners will be extremely hesitant to sign death certificates to allow for the above family matters to take place expeditiously due to the fact they will have to receive a judge's permission each time they need to change a death certificate. This happens

more often than you think due to a number of factors such as: additional information pertaining to secondary cause of death, toxicology analysis, autopsy clarifications, typographical errors and other situations. Hence, if HB 146 becomes law, death certificates will be signed as "pending" and will remain "pending" until absolutely no potential new information could possibly develop. Unfortunately, this will delay burial permits, estate issues and insurance claims, which would obviously affect hundreds of families across the state. Grieving Ohio families will suffer which is an unfortunate unintended consequence, but this bill will effectively tie coroner hands.

We also see potential issues with cold case investigations or cases where new facts are discovered. This new process outlined in HB 146 will become arduous for coroners, prosecutors, law enforcement officials and the court system.

I would like to read comments from a coroner regarding this bill that may assist you in understanding some of the further implications HB 146 may have:

In many jurisdictions, changes to the cause of death on a death certificate are often administrative rather than substantive. For instance, I have changed death certificates to make sure that the terminology of the death certificate and autopsy report are congruent (e.g. my preliminary death certificate may say "blunt trauma" while my autopsy report might say "Subdural hematoma Due to Blunt trauma of the head.", or I might want to add "severe atherosclerotic coronary artery disease" in part II to a drug-related death).

*At least in my jurisdiction, we change death certificates *all the time* because we provide a preliminary death certificate after the gross examination, and then "fill in the blanks" with the results of the complete evaluation. Thus, were this law in effect, the judge would be getting involved in about 60% of our cases. If the judge will have to sign off on all changes from "Pending" to something else, it would likely be higher.*

This will represent a major time sink for the court, will cost the taxpayers a great deal of money for administrative costs unnecessarily.

Worse, it will accomplish little other than having the courts insist on a deception for the sake of continuity. If a forensic pathologist receives information that causes him or her to re-evaluate the Cause of Death, and the judge decides that he or she prefers the inaccurate Cause of Death, what does that actually accomplish other than enforcing a Cause of Death determination that is in error?

One can only assume that the reason that this bill is introduced is to preclude the changing of Cause of Death in a manner that affects the outcome of a criminal case. Having this law in place will damage, rather than enhance the reputation of the judicial system in Ohio. If a pathologist discovers information that causes him or her to modify the Cause of Death in a

*manner that would be less advantageous to the prosecution, and the courts force the pathologist not to record his or her considered opinion, how would that play to a jury? One can only imagine how the jury would respond to the question of "You really do not believe the Cause of Death is what is recorded on the Death Certificate? No? But the Prosecuting Attorney and the Judge will not let you change it to the *real* Cause of Death? Why would that be, Doctor?" Maintaining an error on the Death Certificate by judicial fiat would *not* help the courts or judicial system. In fact, I was recently made aware that Maryland once had the provision outlined in HB 146 but, procedurally, a judge, not being a medical expert, had to in fact rely or defer to the Coroner's opinion, as most of the cases did not have contradictory medical experts presenting. So, as was found to be the case in Maryland, the hearings become a nuisance administrative procedure for which the prosecutor's offices eventually petitioned to have the law changed back.*

In summary, the Ohio State Coroners Association believes HB 146 is not necessary due to current law, ORC Section 313.19. It allows for those entities that want to challenge the coroner's verdict the ability to do so in a manner that does not place an undue burden on themselves or coroner offices. And, as you know, coroner offices are already under-staffed and over-worked due to many factors including an increase in coroner cases that include an epidemic of drug overdose deaths and, additionally, as Ohio's population ages and more families become transient, seniors are dying with no primary care physicians or family members to assist with disposition arrangements. In fact, as you probably read in the Sunday May 28th edition of the Columbus Dispatch, Ohio's drug overdose death statistics have increased over 30% in 2016 compared to 2015 to over 4,100 overdose deaths. (If you haven't seen the article, we've included copies for your review.)

I would be honored to answer any questions you may have at this time. Thank you.

David P. Corey
Executive Director
Ohio State Coroners Association
3757 Indianola Ave.
Columbus, OH 43214
614.262.OSCA (6722)
dcorey@osca.net