

**House State & Local Government Committee  
Sub HB 146 - Ohio State Coroners Association (OSCA)  
Opponent Testimony  
Dr. Kent Harshbarger, MD,  
OSCA Chief Forensic Officer &  
Montgomery County Coroner  
Wednesday, February 14, 2018**

Chairwoman Anielski, Vice Chairman Hambley, Ranking Minority Member Holmes and members of the House State & Local Government Committee. Thank you for the opportunity today to express OSCA's viewpoints on Substitute HB 146.

As discussed in our testimony last June by OSCA's Executive Director David Corey, the original bill will cause delays in death certification; place undue burden on what is the first mission Nationally and for the State of Ohio as it relates to a death certification, which is of course accuracy; places an undue burden on the court system having numerous hearings; and the changes will not function to prevent the case example cited by the sponsor as what was learned by the State of Maryland when they went down this same road as Ohio is trying to do and then had to reverse their course and change their law after they found it was unworkable.

The substitute bill is an improvement in that it recognizes the exceptions for pending, blank, and adding detail; however, it creates a confusing distinction between the immediate and underlying cause of death and again does not reach the sponsor's objective. This distinction will only serve to remove detail that is desired for national statistic gathering. This is because the bill will force everything to be lumped into the "immediate cause of death line", which, unless interpreted differently, can be changed once within 8 weeks of death and once indefinitely after. An example would be changing a chain of causation from something like sepsis due to urinary tract infection due to paraplegia due to gunshot wound of the abdomen into simply gunshot wound of the abdomen.

In the original sponsor's testimony, it was argued that death certificates are arbitrarily changed at the whim of a Coroner. This is of course not true, even in the case example, the case was reviewed by two forensic pathologists, and, the defense in this case also had a prominent forensic pathologist to testify the death was natural. Physicians simply disagree. The Coroner's Association has suggested to the sponsor that the issues he wants to address and which is highlighted by the case example, can be resolved or prevented by prohibiting a Coroner from changing the rulings of a previous Coroner without a court hearing.

It is rare for a Coroner to change a cause or manner of death opinion that they generated such that this one provision or change essentially eliminates the issue without causing other Ohio families to be burdened. As an example of the burden, under current law, Coroners are free to sign death certificates early on in the investigation based on reliable but preliminary information. This assists families with estate issues and insurance claims. This practice will stop under this bill. 2016 data reveals that out of 1,275 natural death certificates, 86 were changed, 77 of those went to accident. Many of these accidental cases are likely examples of deaths that appear to be from natural causes but later testing reveals the presence a substance on toxicology, such as an opioid. If this bill is passed, all 77 of those families in 2016 would have received pending certificates preventing the newly required court hearing. Effectively taking a remarkable rare issue and changing the problem such that many more Ohio families are affected.

The court burden is significant. Analysis of the data given to the sponsor by the department of vital statistics showed that in 2016 a total of 98 death certificates had changes that did not fall within this bill's three exceptions and therefore would have required a hearing. But, perhaps more importantly, as was the experience in Maryland, the hearings become oppressive formalities. As you know, the hearing authority or Judge must rely on medical expert testimony, and as Maryland found in nearly all of these hearings the Coroner/ME was the only testimony, resulting in a formality approval process that wasted time and resources. The sponsor argues this new bill shifts the burden from the family having to seek a death certificate change to the government. However, in reality, the burden is no less significant on Ohio families than it is now, to be effective they must still hire an attorney and/or at a minimum provide/hire a medical expert to counter the Coroner's opinion.

The Coroners Association believes the sponsor's desire to prevent the case example cited would be to prevent a subsequent Coroner from re-evaluating previous cases. But, at a minimum, a change to this bill should be allowed for an extended time period, such as Maryland restricts changes after 3 years for all but the Coroner/ME. We respectfully request that the substitute bill not be approved and that changes be made that will not burden Ohio's families or hamstring Ohio's death investigation and court systems. Limiting death certificate changes to mandating a coroner cannot change the rulings of a previous Coroner without a court hearing would be the best way in which to address the sponsor's concerns. Thank you for the opportunity to provide detail on what the impact would be of Substitute HB 146. I'm happy to answer any questions you may have at this time.