

HOUSE BILL 1005

By Van Huss

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 38, Chapter 7 and Title 68, relative to manner
of death determinations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-3-502, is amended by deleting subsection (i) and substituting instead the following:

(i)

(1) When a county medical examiner suspects that suicide may be a potential manner of death, the medical examiner is encouraged to consult the decedent's treating mental health professional, if known or applicable, prior to determination of manner of death.

(2)

(A) If, after inquiry by the county medical examiner pursuant to title 38, chapter 7, part 1, the medical examiner determines a decedent's manner of death to be suicide, then the medical examiner shall place the death certificate manner of death in pending status and, within ten (10) calendar days of making the determination, send written notice to the decedent's next of kin that explains the medical examiner's reasoning for the suicide determination. If the decedent's next of kin disputes the manner of death determination, then the next of kin may seek reconsideration of the manner of death determination.

(B)

(i) To seek reconsideration pursuant to subdivision (i)(2)(A), the next of kin must, within ninety (90) days of the date of the letter from the medical examiner, submit a written request for reconsideration to the county medical examiner who made the initial manner of death determination. The written request must state the nature and reasons for the reconsideration. If the county medical examiner that made the initial manner of death determination is no longer the county medical examiner, then the notice must be sent to the current county medical examiner instead.

(ii) Within ten (10) days of receipt of a request for reconsideration from the decedent's next of kin, the county medical examiner shall send written notification of the request to the chief medical examiner of the regional forensic center where the autopsy was performed, the Tennessee medical examiner advisory council, and the commissioner of health.

(3) Within thirty (30) days after receiving written notice of the reconsideration request pursuant to subdivision (i)(2)(B), the county medical examiner shall meet with the requesting next of kin. The meeting must be either in person or via teleconference, at the discretion of the requesting next of kin. At the meeting, each party must present the reasons supporting their position with respect to the manner of death, including any relevant documentation. The county medical examiner shall make a written determination on the reconsideration within thirty (30) days after the reconsideration meeting and shall notify the requesting next of kin, the chief medical examiner of the regional forensic center where the autopsy was performed, the Tennessee medical examiner advisory council, and the commissioner of health in writing. If the

medical examiner that made the initial manner of death determination is no longer in a position as county medical examiner, then the current county medical examiner must participate in the reconsideration meeting and issue the written determination on the reconsideration instead.

(4) If, after reconsideration made pursuant to subdivision (i)(3), the county medical examiner finds a change in the manner of death determination is warranted or the requesting next of kin no longer disputes the manner of death determination, then the county medical examiner must complete the death certificate by removing the pending status from the manner of death determination and entering a manner of death to reflect the county medical examiner's findings as to manner of death. If the county medical examiner does not find that a change in the manner of death is warranted and the determination of manner of death is still disputed by the requesting next of kin, then the county medical examiner must leave the death certificate manner of death in pending status until any further review pursuant to subdivisions (i)(2) – (5) is complete, or upon receipt of written notice from the next of kin prior to completion of any of the stages of review pursuant to subdivisions (i)(2) – (5) that states that the next of kin no longer wishes to pursue further review.

(5)

(A) Except as provided in subdivision (i)(5)(B), the requesting next of kin may seek further review of the determination by sending a written request for further reconsideration to the county medical examiner within thirty (30) days of the reconsideration meeting conducted pursuant to subdivision (i)(3). Upon receipt of the written request, the county medical examiner shall notify the chief medical examiner of the regional

forensic center in which the autopsy was performed, the Tennessee medical examiner advisory council, and the department of health of the next of kin's request. The chief medical examiner of the regional forensic center where the autopsy was performed shall review the medical records, hospital records, investigative reports, and any other documentary evidence deemed necessary of the deceased. The chief medical examiner of the regional forensic center shall respond to the requesting next of kin detailing the findings within thirty (30) days with a written report. The report must state whether the chief medical examiner of the regional forensic center agrees with the determination of manner of death, and, if the chief medical examiner of the regional forensic center disagrees with the determination of manner of death, then the report must detail those findings and the basis for the disagreement. The chief medical examiner of the regional forensic center shall send the report to the next of kin, the Tennessee medical examiner advisory council, and the commissioner of health.

(B) If the chief medical examiner of the regional forensic center in which the autopsy was performed acted as the county medical examiner and made the initial determination of manner of death, then the requesting next of kin may seek further review of the determination by sending a written request for further reconsideration to the chief medical examiner who acted as the county medical examiner within thirty (30) days of the reconsideration meeting conducted pursuant to subdivision (i)(3), or may proceed as described in subdivision (i)(5)(C). Upon receipt of the written request, the chief medical examiner shall notify the

Tennessee medical examiner advisory council and the department of health of the next of kin's request. The Tennessee medical examiner advisory council shall assign the review to the chief medical examiner of another regional forensic center in this state according to the distribution system established by the advisory council pursuant to § 38-7-201(g). The chief medical examiner who is assigned the review by the advisory council shall review the medical records, hospital records, investigative reports, and any other documentary evidence deemed necessary of the deceased. The reviewing chief medical examiner shall respond to the requesting next of kin detailing the findings within thirty (30) days with a written report. The report must state whether the reviewing chief medical examiner agrees with the determination of manner of death, and, if the reviewing chief medical examiner disagrees with the determination of manner of death, then the report must detail those findings and the basis for the disagreement. The reviewing chief medical examiner shall send the report to the next of kin, the Tennessee medical examiner advisory council, and the commissioner of health.

(C)

(i) If the chief medical examiner of the regional forensic center in which the autopsy was performed acted as the county medical examiner and made the initial determination of manner of death, then the requesting next of kin may, as an alternative to subdivision (i)(5)(B), seek further review of the determination by requesting further review by an independent forensic pathologist chosen by the next of kin and at the sole expense of the next of

kin, by sending a written notice to the chief medical examiner who acted as the county medical examiner within thirty (30) days of the reconsideration meeting conducted pursuant to subdivision (i)(3).

(ii) Upon receipt of the written notice, the chief medical examiner shall notify the Tennessee medical examiner advisory council and the department of health of the next of kin's request. The Tennessee medical examiner advisory council shall, within thirty (30) days of the written notice, certify that the forensic pathologist chosen by the next of kin holds education and training qualifications that meet or exceed the minimum education and licensing requirements for a county medical examiner in this state. If the advisory council certifies the forensic pathologist, then it must send written notice to the next of kin and the chief medical examiner. The chief medical examiner shall then provide the forensic pathologist with access to the decedent's case file for review. If the advisory council determines that the forensic pathologist does not satisfy the minimum requirements for county medical examiners in this state, then it must send written notice to the next of kin that the chosen forensic pathologist does not meet the minimum certification requirements and is not authorized to conduct the independent review under this section. The next of kin may then choose another independent forensic pathologist within thirty (30) days and make notification of the selection pursuant to subdivision (i)(5)(C)(i).

(iii) Subject to subdivision (i)(5)(C)(ii), the forensic pathologist shall review the medical records, hospital records, investigative reports, and any other documentary evidence deemed necessary of the deceased. The forensic pathologist shall respond to the requesting next of kin detailing the findings within thirty (30) days with a written report. The report must state whether the forensic pathologist agrees with the determination of manner of death, and, if the forensic pathologist disagrees with the determination of manner of death, then the report must detail those findings and the basis for the disagreement. The forensic pathologist shall send the report to the next of kin, the Tennessee medical examiner advisory council, and the commissioner of health.

(D) If the chief medical examiner of the regional forensic center, the reviewing chief medical examiner under subdivision (i)(5)(B), or the reviewing forensic pathologist under subdivision (i)(5)(C) finds that a change in the manner of death determination is warranted, then the chief medical examiner, reviewing chief medical examiner, or forensic pathologist must, within thirty (30) days, send written notice to the county medical examiner who made the initial manner of death determination that directs the county medical examiner to complete the death certificate by removing the pending status from the manner of death determination and enter a manner of death to reflect the reviewer's findings as to manner of death.

(6)

(A) If, after a review conducted pursuant to subdivision (i)(5), the determination of manner of death is unchanged, then the requesting next of kin may seek mediation with the chief medical examiner of the regional forensic center with a Rule 31 mediator under the Rules of the Supreme Court of Tennessee, at the sole expense of the requesting next of kin.

(B) If the chief medical examiner of the regional forensic center finds a change in the manner of death determination is warranted following mediation, the chief medical examiner must, within thirty (30) days, send written notice to the county medical examiner who made the initial manner of death determination that directs the county medical examiner to complete the death certificate by removing the pending status from the manner of death determination and enter a manner of death to reflect the chief medical examiner's findings as to manner of death.

(7) If, after the expiration of the thirty-day period provided for notice of a request for mediation by subdivision (i)(6) the next of kin has not submitted a notice seeking mediation, or at the conclusion or termination of any mediation conducted pursuant to subdivision (i)(6), the county medical examiner has not been directed to indicate a different manner of death, or upon receipt of written notice from the next of kin indicating that the next of kin no longer disputes the county medical examiner's initial manner of death determination, then the county medical examiner must complete the death certificate by removing the pending status from the manner of death determination and entering a manner of death to reflect the county medical examiner's initial finding.

(8) The department of health shall maintain a notice of decedents' next of kin rights with regard to this subsection (i) on its public website.

(9) As used in this subsection (i), "next of kin" means the person who has the highest priority pursuant to § 62-5-703.

(10) This subsection (i) applies only when the manner of death is determined to be suicide.

(11) Unrelated parties have no liability for relying on the original death certificate, without regard to subsequent revision under this part.

(12) The next of kin may, at any time during a requested review or mediation conducted pursuant to subdivisions (i)(4) – (6), terminate the review or mediation and seek relief from a court of competent jurisdiction. This section does not require completion of subdivisions (i)(4) – (6) by the next of kin in order to seek judicial relief.

SECTION 2. Tennessee Code Annotated, Section 38-7-201(f), is amended by adding the following new subdivision:

(6) Create a system to equitably distribute manner of death determination appeals and collect statistics in accordance with subsection (g).

SECTION 3. Tennessee Code Annotated, Section 38-7-201, is amended by adding the following new subsection:

(g) The council shall:

(1) Create a system of distribution of manner of death reconsideration applications involving an appeal of a manner of death of suicide determination by the chief medical examiner of the regional forensic center acting as the county medical examiner. The system must ensure that the requests for reconsideration

are distributed equitably among the chief medical examiners of the regional forensic centers; and

(2) Collect information and statistics on manner of death determination reconsiderations conducted pursuant to this section. The information and statistics collected must include, but are not limited to:

(A) The name of the county medical examiner or chief medical examiner acting as county medical examiner who made the initial manner of death determination that is reconsidered;

(B) The name of the chief medical examiner who conducts the reconsideration;

(C) Whether the reviewing chief medical examiner agreed or disagreed with the initial manner of death determination, and in the event of disagreement, the reasons for the reviewing chief medical examiner's disagreement; and

(D) The number of manner of death determinations requested annually in this state, to be listed by the county in which the original determination was made and statewide aggregate figures; the stages of the reconsideration process each reconsideration request completes; and the outcome of the reconsiderations, to include the percentage of manner of death determinations upheld and overturned.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it, and applies to manner of death determinations made on or after that date.