

Senate Judiciary Committee

Pete Mulvey 271-4063

SB 146-FN, relative to medical examiner's certificates and medical certification of the death record.

Hearing Date: February 11, 2025

Time Opened: 1:00 p.m.

Time Closed: 1:38 p.m.

Members of the Committee Present: Senators Gannon, Altschiller and Reardon

Members of the Committee Absent : Senators Abbas and Carson

Bill Analysis: This bill amends requirements for viewing of a deceased body in regard to medical examiner's certificates and medical certification of the death record.

This bill is a request of the department of justice and the office of the chief medical examiner.

Sponsors:

Sen. Prentiss

Sen. Fenton

Sen. Perkins Kwoka

Sen. Watters

Sen. Long

Sen. Birdsell

Sen. Rosenwald

Who supports the bill: Ten individuals signed in support of SB 146-FN. Contact Pete Mulvey (peter.mulvey@gc.nh.gov) for further details.

Who opposes the bill: Four individuals signed in opposition to SB 146-FN. Contact Pete Mulvey (peter.mulvey@gc.nh.gov) for further details.

Who is neutral on the bill: N/A

Summary of testimony:

Senator Suzanne Prentiss

Senate District 5

- Senator Prentiss appeared alongside Dr. Jenny Duval, chief medical examiner (CME/ME) for Concord, who requested the legislation.
- Sen. Prentiss introduced SB 146-FN and clarified that the analysis of the bill was incorrect.
 - Sen. Prentiss suggested that under the proposed bill, deaths will be certified, and certificates will be issued as they were currently.
 - The only change was relative to a body being viewed by a CME prior to cremation.

- Sen. Prentiss explained that she spent five years working as an associate deputy medical examiner (ADME) in which she had personally conducted investigations and viewed bodies prior to cremation.
 - The duties of an ADME include conducting investigations, exams, and working with hospitals and hospice care facilities to complete examinations after death.
- Sen. Prentiss noted that there had been a significant increase in families opting for cremation.
- Sen. Prentiss stated that New Hampshire was one of four states which required a viewing by a certified medical examiner prior to the issuing of a cremation certification.
- The real examination occurred prior to the certification of death.
 - Death exams are conducted by healthcare providers, nurse practitioners, or other certified professionals familiar with the individual's medical record in a hospital setting.
- Medical examiners in New Hampshire assume responsibility for the certification of unexpected or unnatural deaths, which total approximately 2,000 a year.
- For the death certificate to be generated, the body must be viewed by a certified medical examiner rather than simply a licensed physician.
- Roughly 600 autopsies were conducted annually in New Hampshire which added time constraints to the already busy schedule of a medical examiner.
- Sen. Prentiss specified that the purpose of viewing was to ensure the death certificate was filled out properly and there were multiple points throughout the post-death process which made such a requirement at the end stage redundant.
- Sen. Prentiss stated that the prime motivation for the bill was to enable loved ones to be returned to their families in a timelier manner.
- Sen. Gannon asked who would certify a death of an elderly patient at a nursing home.
 - Sen. Prentiss stated that it would be done by the patient's attending physician.
 - ADMEs were responsible for the certification of unnatural deaths that required an autopsy.
 - If the decedent elected for cremation, current requirements mandated a viewing prior to cremation by a certified medical examiner.
 - There was currently a mandatory minimum 48 hour wait period after death before cremation was permitted.
- Dr. Duval emphasized that all the bill sought to eliminate the necessity for a body to be viewed by a certified medical examiner prior to cremation.
 - The number of cremations had soared while the number of ADMEs had dropped.
- Dr. Duval argued that there was no statistical difference between viewing the body to capture unreported deaths and simply reviewing the death certificate.
 - She stated that most of the circumstances that would be encompassed by the bill would be for natural deaths of elderly individuals.
- Sen. Avard asked if the bill would undermine a family member's ability to view a body.
 - Dr. Duval clarified that such a situation was a matter between the funeral director and the family and would not be affected by the bill.
- Sen. Reardon suggested that cremating a body without proper viewing simply assumed the cause of death which could be troubling in certain circumstances.
 - Dr. Duval suggested that any indication of trauma would be statutorily reported and investigated.
- Sen. Reardon asked if there would be a viewing for an elderly person found in their bed.
 - Dr. Duval clarified that MEs would not view the body in that case unless there were suspicious circumstances which prompted a review.

- Dr. Duval reiterated that police, family, primary care physicians, or EMS would determine the cause of death, and if natural, would be certified accordingly.
- Dr. Duval stated that under this bill, MEs would not be asked to rubber stamp a natural death.
- Sen. Prentiss reiterated that in her experience, if a family member was found dead in their home, law enforcement would report on their findings to the ME and a conversation would be had to determine the deceased's medical providers and analyze details in consultation with pathologists to determine if the death was a natural or unnatural passing.
- If anything was questionable, the CME would be consulted and perhaps have an autopsy ordered; however, such situations were rare.
- Sen. Reardon thought of many seemingly natural deaths that ended up appearing questionable under further examination
 - Sen. Prentiss stated that the ME's job was to conduct medical investigation and not criminal investigation.
 - The way a body was found was often revealing toward the manner of death.
- Dr. Duval suggested true certainty would require universal autopsies on everybody, which was unfeasible.
- high quality death investigations would continue following the bill.
- Sen. Altschiller asked if the CME declined jurisdiction, and ultimately viewing, if SB 146 absolved them from viewing the body at all prior to cremation.
 - Dr. Duval said that it would, which was entirely normal for burials.
 - Dr. Duval clarified that there was already a subset of deaths which the MEs did not become involved with at all.

Peter Morin

Executive Director, Funeral Directors and Embalmers Association (NH FDA)

- Mr. Morin testified in favor, albeit with concern.
- The NH FDA had a longstanding relationship with the state's MEs.
- Mr. Morin testified that the reasoning regarding the introduction of the bill by Dr. Duvall and Sen. Prentiss was understandable.
- There was a cost and time factor involved with the change in regulation, which was fair.
- Mr. Morin explained that the NH FDA's one concern pertained to the norm of having the CME view bodies prior to cremations and stated that any deviation from that may be a concern given that cremations were totally irreversible.
 - Burials, if necessary, could be located and exhumed.
- As a result, Mr. Morin argued that changes to the practice may increase responsibility and liability for funeral homes and directors responsible for cremations.
- When it came to fatality planning, funeral homes and directors were the only private sector components.
- Mr. Morin suggested amending the language of the bill to account for a hold harmless clause in the interest of funeral parlors or providing it in statute elsewhere.
- Mr. Morin noted that there had been cases where an individual's body had been received from a hospital characterized as a natural death only to discover circumstances which necessitated review by the ME.
- Sen. Altschiller asked if Mr. Morin could elaborate on the hold harmless clause that he requested.

- Mr. Morin stated that the funeral directors would be the only party responsible for the bodies before cremation, which placed considerable liability on them.
- Sen. Avard asked Mr. Morin to provide language for an amendment.
 - Mr. Morin suggested drawing from similar statutes but stated that he would research and get back to the committee.

Senator Suzanne Prentiss

Senate District 5

- Sen. Prentiss wished to follow up on a situation raised by Mr. Morin's testimony in which there was uncertainty about the death certificate on the part of the funeral home.
- Sen. Prentiss explained that in any such circumstance where there was uncertainty, a process existed in which the case could be looked into further to gain more insight and clear up any inconsistencies.

PM

Date Hearing Report completed: February 18, 2025