

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 987

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO HEALTH AND SAFETY; REQUIRING THE STATE MEDICAL
INVESTIGATOR TO CONSULT WITH RELATIVES OF THE DECEASED
REGARDING DISPOSITION OF REMAINS OF NATIVE AMERICANS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-11-6.1 NMSA 1978 (being Laws 2003,
Chapter 191, Section 2) is amended to read:

"24-11-6.1. DECEASED MEMBERS OF INDIAN NATIONS, TRIBES OR
PUEBLOS--CONSULTATION AND CERTIFICATION REQUIRED.--

A. The state medical investigator shall make
reasonable efforts to determine if a deceased person is a
member of a federally recognized Indian nation, tribe or
pueblo. If a deceased person ~~[is]~~ has been determined to be a
member of a federally recognized Indian nation, tribe or
pueblo, the state medical investigator shall use all due

.157186.1

underscored material = new
[bracketed material] = delete

1 diligence ~~[after any legally required autopsy or post-mortem~~
2 ~~examination, to consult with the legal next of kin of the~~
3 ~~deceased regarding the disposition of all of the deceased's~~
4 ~~remains, unless other treatment of the remains is provided for~~
5 ~~by law]~~ to avoid an autopsy except when legally required due to
6 possible criminal acts or omissions, an obscure cause of death
7 or other reasons or pursuant to consent given according to the
8 provisions of Section 24-12-4 NMSA 1978. The state medical
9 investigator shall use the least invasive means possible to
10 satisfy the investigator's legal duties in conducting an
11 autopsy.

12 B. If the state medical investigator determines
13 that an autopsy cannot be avoided, the investigator shall
14 attempt to provide advance notice of the autopsy to the
15 surviving spouse or next of kin, or to the Indian nation, tribe
16 or pueblo of the deceased. The state medical investigator
17 shall provide documentation concerning the autopsy upon request
18 of the surviving spouse or next of kin, or if none is
19 identified, to the Indian nation, tribe or pueblo of which the
20 deceased was a member.

21 C. If requested by the surviving spouse or the next
22 of kin, or if none is identified, by the Indian nation, tribe
23 or pueblo through an official representative designated
24 pursuant to Subsection E of this section, the state medical
25 investigator shall permit a law enforcement officer of the

1 Indian nation, tribe or pueblo of the deceased to be present
2 during the autopsy. The law enforcement officer attending the
3 autopsy may not interfere with the autopsy procedure and shall
4 follow the health regulations governing autopsy procedures.

5 D. After any legally required autopsy or postmortem
6 examination has been conducted, the state medical investigator
7 shall use all due diligence to consult with the surviving
8 spouse or next of kin of the deceased regarding the disposition
9 of all of the deceased's remains. Unless other treatment of
10 the remains is required by law, the state medical investigator
11 shall replace all body parts and, if requested, shall provide
12 written certification to the surviving spouse or next of kin of
13 the deceased that the investigator has replaced all body parts.

14 E. The state medical investigator shall request
15 that each Indian nation, tribe and pueblo located in New Mexico
16 designate, and keep current the designation of, an official
17 representative that the state medical investigator shall
18 contact when it is necessary to contact a tribal representative
19 regarding an autopsy or the disposition of the remains of a
20 deceased member of the Indian nation, tribe or pueblo."