

ASSEMBLY BILL

No. 957

Introduced by Assembly Member Wagner

February 22, 2013

An act to amend Section 129 of the Code of Civil Procedure, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 957, as introduced, Wagner. Postmortem photographs.

Existing law prohibits making a copy, reproduction, or facsimile of a photograph, negative, or print of the body of a deceased person taken by, or for, the coroner at the scene of death, or in the course of a post mortem examination or autopsy, except for use in a criminal proceeding that relates to the death of that person or by order of the court for good cause, as specified. This provision does not apply to making a copy, reproduction, or facsimile for use in the field of forensic pathology, in medical or scientific education or research, or by any law enforcement agency.

This bill would additionally permit a copy, reproduction, or facsimile to be made for deposition discovery in arbitration proceedings, as specified. The bill would exclude from application of this provision the making or dissemination of a copy, reproduction, or facsimile for use in the field of forensic pathology, in medical or scientific education or research, and by a coroner or any law enforcement agency for investigative purposes or identification confirmation. The bill would provide that a coroner is not liable for monetary damages in a civil action for any act, or failure to act, in compliance with these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 129 of the Code of Civil Procedure is
2 amended to read:

3 129. (a) Notwithstanding any other ~~provision of law~~, no copy,
4 reproduction, or facsimile of any kind shall be made of ~~any a~~
5 photograph, negative, or print, including instant photographs and
6 video recordings, of the body, or any portion of the body, of a
7 deceased person, taken by or for the coroner at the scene of death
8 or in the course of a post mortem examination or autopsy ~~made~~
9 ~~by or caused to be made by the coroner, except for~~, *except as*
10 *follows:*

11 (1) *For use in a criminal action or proceeding in this state that*
12 *relates to the death of that person, or except as person.*

13 (2) *As a court of this state permits, by order after good cause*
14 *has been shown and after written notification of the request for*
15 *the court order has been served, at least five days before the order*
16 *is made, upon the district attorney of the county in which the post*
17 *mortem examination or autopsy has been made or caused to be*
18 *made.*

19 (3) *For deposition discovery in arbitration proceedings pursuant*
20 *to Section 1283.05.*

21 (b) *This section shall not apply to the making of such or*
22 *dissemination of a copy, reproduction, or facsimile for use in the*
23 *field of forensic pathology, for use in medical or scientific*
24 *education or research, or for use by a coroner or any law*
25 *enforcement agency in this or any other state or the United States*
26 *for investigative purposes or identification confirmation.*

27 (c) *This section shall apply to any such a copy, reproduction,*
28 *or facsimile, and to any such a photograph, negative, or print,*
29 *heretofore or hereafter made regardless of when it was made.*

30 (d) *A coroner is not liable for monetary damages in a civil action*
31 *for any act, or failure to act, in compliance with this section.*

O