

**ASSEMBLY BILL**

**No. 2427**

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**Introduced by Assembly Member Chau**

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2427, as introduced, Chau. Postmortem photographs.

Existing law generally prohibits a copy, reproduction, or facsimile of any kind of a photograph, negative, or print, including instant photographs and video recordings, of the body, or any portion of the body, of a deceased person, taken by or for the coroner at the scene of death or in the course of a postmortem examination or autopsy, from being made or disseminated. This prohibition does not apply for use in a criminal action or proceeding in this state that relates to the death of that person, or as a court permits, by order after good cause has been shown and after written notification of the request for the court order has been served, at least 5 days before the order is made, upon the district attorney of the county in which the postmortem examination or autopsy has been made or caused to be made.

This bill would additionally authorize the making or dissemination of a copy, reproduction, or facsimile described above for use or potential use in a civil action or proceeding that relates to the death of the deceased person if the coroner receives written authorization from a legal heir or representative of the deceased person before the action is filed or while the action is pending, or if a subpoena is issued in a pending civil action.

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 law, a copy, reproduction,  
4 or facsimile of any kind of a photograph, negative, or print,  
5 including instant photographs and video recordings, of the body,  
6 or any portion of the body, of a deceased person, taken by or for  
7 the coroner at the scene of death or in the course of a post mortem  
8 examination or autopsy, shall not be made or disseminated except  
9 as follows:  
10 (1) For use in a criminal action or proceeding in this state that  
11 relates to the death of that person.  
12 (2) As a court of this state permits, by order after good cause  
13 has been shown and after written notification of the request for  
14 the court order has been served, at least five days before the order  
15 is made, upon the district attorney of the county in which the post  
16 mortem examination or autopsy has been made or caused to be  
17 made.  
18 (3) *For use or potential use in a civil action or proceeding in*  
19 *this state that relates to the death of that person, if either of the*  
20 *following applies:*  
21 (A) *The coroner receives written authorization from a legal heir*  
22 *or representative of that person before the action is filed or while*  
23 *the action is pending.*  
24 (B) *A subpoena is issued in a pending civil action.*  
25 (b) This section shall not apply to the making or dissemination  
26 of a copy, reproduction, or facsimile for use in the field of forensic  
27 pathology, in medical or scientific education or research, or by a  
28 coroner or any law enforcement agency in the United States for  
29 investigative purposes, including identification and identification  
30 confirmation.  
31 (c) This section shall apply to a copy, reproduction, or facsimile,  
32 and to a photograph, negative, or print, regardless of when it was  
33 made.

1 (d) A coroner is not personally liable for monetary damages in  
2 a civil action for any act or omission in compliance with this  
3 section.

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