

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2029**

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**Introduced by Assembly Member Cooley**

February 20, 2014

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An act to amend ~~Section 27491.41~~ Sections 27491 and 27491.4 of, and to add Section 27491.42 to, the Government Code, and to amend Section 13519.3 of the Penal Code, relating to inquests.

LEGISLATIVE COUNSEL'S DIGEST

AB 2029, as amended, Cooley. Inquests: ~~sudden infant death syndrome~~. *sudden unexpected death in childhood.*

~~Existing~~

(1) Existing law states that the Legislature finds and declares that sudden infant death syndrome (SIDS), as defined, is the leading cause of death for children under age one. *Under existing law, the coroner has a duty to inquire into and determine the circumstances, manner, and cause of, among other things, deaths where the suspected cause of death is sudden infant death syndrome.* The coroner is required to; ~~among other things,~~ perform an autopsy, within 24 hours or as soon thereafter as feasible, in any case where an infant has died suddenly and unexpectedly. *The coroner is required to conduct the autopsy pursuant to protocols developed by the State Department of Public Health and is authorized to take tissue samples for research purposes from infants who have died suddenly and unexpectedly. The department is required to establish procedures and protocols for access by researchers to any tissues, other materials, or data that is collected. Existing law authorizes a person to conduct research on those tissues, other materials, or data if he or she has a valid scientific purpose and*

*receives prior approval from the State Committee for the Protection of Human Subjects. Under existing law, it is a misdemeanor for a funeral director, physician, or other person who has charge of a deceased person's body to not immediately notify the coroner if death occurred as a result of any of the causes or circumstances that the coroner has a duty to inquire into.*

*This bill would expand the duty of the coroner to also inquire into and determine the circumstances, manner, and cause of deaths where a child, who is one year of age or older but under 18 years of age, dies suddenly and unexpectedly or where the suspected cause of death is sudden unexpected death in childhood. This bill would define "sudden unexpected death in childhood" as the sudden death of a child one year of age or older but under 18 years of age that is unexpected by the history of the child and where a thorough postmortem examination fails to demonstrate an adequate cause of death. This bill would require the coroner to perform an autopsy within 24 hours or as soon thereafter as feasible in any case where a child has died suddenly and unexpectedly. This bill would also require the coroner to conduct the autopsy pursuant to protocols developed by the department and would authorize the coroner to take tissue samples for research purposes from children who have died suddenly and unexpectedly. This bill would require the department to establish procedures and protocols for access by researchers to any tissues, other materials, or data that is collected, and would authorize a person to conduct research on those tissues, other materials, or data if he or she has a valid scientific purpose and receives prior approval from the State Committee for the Protection of Human Subjects. This bill would exempt the coroner from liability for damages in a civil action for any act or omission done in compliance with a specified statute.*

*By expanding the duties of a local agency and expanding the scope of an existing crime, this bill would create a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains*

*costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

*(2) Existing law requires the Commission on Peace Officer Standards and Training to establish a course on the nature of sudden infant death syndrome and the handling of cases involving the sudden deaths of infants. The commission is also required to prepare guidelines establishing standard procedures for the investigation of cases involving sudden deaths of infants.*

*This bill would require the commission to include information on sudden unexpected death in childhood in the established course and to prepare guidelines establishing standard procedures for the investigation of cases involving sudden and unexpected deaths of children.*

~~This bill would make technical, nonsubstantive changes to those provisions.~~

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

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

1 *SECTION 1. Section 27491 of the Government Code is*  
2 *amended to read:*

3 27491. It shall be the duty of the coroner to inquire into and  
4 determine the circumstances, manner, and cause of all violent,  
5 sudden, or unusual deaths; unattended deaths; deaths where the  
6 deceased has not been attended by either a physician or a registered  
7 nurse, who is a member of a hospice care interdisciplinary team,  
8 as defined by subdivision (e) of Section 1746 of the Health and  
9 Safety Code in the 20 days before death; deaths related to or  
10 following known or suspected self-induced or criminal abortion;  
11 known or suspected homicide, suicide, or accidental poisoning;  
12 deaths known or suspected as resulting in whole or in part from  
13 or related to accident or injury either old or recent; deaths due to  
14 drowning, fire, hanging, gunshot, stabbing, cutting, exposure,  
15 starvation, acute alcoholism, drug addiction, strangulation,  
16 aspiration, or where the suspected cause of death is sudden infant  
17 death syndrome; *deaths where a child, who is one year of age or*  
18 *older but under 18 years of age, dies suddenly and unexpectedly,*  
19 *or where the suspected cause of death is sudden unexpected death*  
20 *in childhood; death in whole or in part occasioned by criminal*

1 means; deaths associated with a known or alleged rape or crime  
2 against nature; deaths in prison or while under sentence; deaths  
3 known or suspected as due to contagious disease and constituting  
4 a public hazard; deaths from occupational diseases or occupational  
5 hazards; deaths of patients in state mental hospitals serving the  
6 mentally disabled and operated by the State Department of State  
7 Hospitals; deaths of patients in state hospitals serving the  
8 developmentally disabled and operated by the State Department  
9 of Developmental Services; deaths under such circumstances as  
10 to afford a reasonable ground to suspect that the death was caused  
11 by the criminal act of another; and any deaths reported by  
12 physicians or other persons having knowledge of death for inquiry  
13 by coroner. Inquiry pursuant to this section does not include those  
14 investigative functions usually performed by other law enforcement  
15 agencies.

16 In any case in which the coroner conducts an inquiry pursuant  
17 to this section, the coroner or a deputy shall personally sign the  
18 certificate of death. If the death occurred in a state hospital, the  
19 coroner shall forward a copy of his or her report to the state agency  
20 responsible for the state hospital.

21 The coroner shall have discretion to determine the extent of  
22 inquiry to be made into any death occurring under natural  
23 circumstances and falling within the provisions of this section, and  
24 if inquiry determines that the physician of record has sufficient  
25 knowledge to reasonably state the cause of a death occurring under  
26 natural circumstances, the coroner may authorize that physician  
27 to sign the certificate of death.

28 For the purpose of inquiry, the coroner shall have the right to  
29 exhume the body of a deceased person when necessary to discharge  
30 the responsibilities set forth in this section.

31 Any funeral director, physician, or other person who has charge  
32 of a deceased person's body, when death occurred as a result of  
33 any of the causes or circumstances described in this section, shall  
34 immediately notify the coroner. Any person who does not notify  
35 the coroner as required by this section is guilty of a misdemeanor.

36 *SEC. 2. Section 27491.4 of the Government Code is amended*  
37 *to read:*

38 27491.4. (a) For purposes of inquiry the coroner shall, within  
39 24 hours or as soon as feasible thereafter, where the suspected  
40 cause of death is sudden infant death syndrome *or sudden*

1 *unexpected death in childhood*, and, in all other cases, the coroner  
2 may, in his or her discretion, take possession of the body, which  
3 shall include the authority to exhume the body, order it removed  
4 to a convenient place, and make or cause to be made a postmortem  
5 examination or autopsy thereon, and make or cause to be made an  
6 analysis of the stomach, stomach contents, blood, organs, fluids,  
7 or tissues of the body. The detailed medical findings resulting from  
8 an inspection of the body or autopsy by an examining physician  
9 shall be either reduced to writing or permanently preserved on  
10 recording discs or other similar recording media, shall include all  
11 positive and negative findings pertinent to establishing the cause  
12 of death in accordance with medicolegal practice and this, along  
13 with the written opinions and conclusions of the examining  
14 physician, shall be included in the coroner's record of the death.  
15 The coroner shall have the right to retain only those tissues of the  
16 body removed at the time of the autopsy as may, in his or her  
17 opinion, be necessary or advisable to the inquiry into the case, or  
18 for the verification of his or her findings. No person may be present  
19 during the performance of a coroner's autopsy without the express  
20 consent of the coroner.

21 (b) In any case in which the coroner knows, or has reason to  
22 believe, that the deceased has made valid provision for the  
23 disposition of his or her body or a part or parts thereof for medical  
24 or scientific purposes in accordance with Chapter 3.5 (commencing  
25 with Section 7150) of Part 1 of Division 7 of the Health and Safety  
26 Code, the coroner shall neither perform nor authorize any other  
27 person to perform an autopsy on the body unless the coroner has  
28 contacted or attempted to contact the physician last in attendance  
29 to the deceased. If the physician cannot be contacted, the coroner  
30 shall then notify or attempt to notify one of the following of the  
31 need for an autopsy to determine the cause of death: (1) the  
32 surviving spouse; (2) a surviving child or parent; (3) a surviving  
33 brother or sister; (4) any other kin or person who has acquired the  
34 right to control the disposition of the remains. Following a period  
35 of 24 hours after attempting to contact the physician last in  
36 attendance and notifying or attempting to notify one of the  
37 responsible parties listed above, the coroner may perform or  
38 authorize the performance of an autopsy, as otherwise authorized  
39 or required by law.

1 (c) Nothing in this section shall be deemed to prohibit the  
 2 discretion of the coroner to conduct autopsies upon any victim of  
 3 sudden, unexpected, or unexplained death or any death known or  
 4 suspected of resulting from an accident, suicide, or apparent  
 5 criminal means, or other death, as described in Section 27491.

6 *SEC. 3. Section 27491.42 is added to the Government Code,*  
 7 *to read:*

8 *27491.42. (a) For purposes of this article, “sudden unexpected*  
 9 *death in childhood” means the sudden death of a child one year*  
 10 *of age or older but under 18 years of age that is unexpected by the*  
 11 *history of the child and where a thorough postmortem examination*  
 12 *fails to demonstrate an adequate cause of death.*

13 *(b) The Legislature finds and declares all of the following:*

14 *(1) Sudden unexpected death in childhood accounts for 1.2*  
 15 *deaths out of every 100,000 children.*

16 *(2) Most deaths from sudden unexpected death in childhood*  
 17 *occur between one year of age and three years of age, but*  
 18 *researchers have studied cases of children as old as 15 years of*  
 19 *age.*

20 *(3) Sudden unexpected death in childhood cannot be predicted*  
 21 *or prevented because the cause of sudden unexpected death in*  
 22 *childhood is unknown.*

23 *(4) The public interest is served by research and study of sudden*  
 24 *unexpected death in childhood, and its potential causes and*  
 25 *indications.*

26 *(c) (1) To facilitate these purposes, the coroner shall, within*  
 27 *24 hours, or as soon thereafter as feasible, perform an autopsy in*  
 28 *any case where a child, who is one year of age or older but under*  
 29 *18 years of age, has died suddenly and unexpectedly.*

30 *(2) However, if the attending physician desires to certify that*  
 31 *the cause of death is sudden unexpected death in childhood, an*  
 32 *autopsy may be performed at the discretion of the coroner. If the*  
 33 *coroner performs an autopsy pursuant to this section, he or she*  
 34 *shall certify the cause of death.*

35 *(d) The autopsy shall be conducted pursuant to a standardized*  
 36 *protocol developed by the State Department of Public Health. The*  
 37 *protocol is exempt from procedural requirements pertaining to*  
 38 *the adoption of administrative rules and regulations pursuant to*  
 39 *Article 5 (commencing with Section 11346) of Chapter 3.5 of Part*

1 *1 of Division 3 of Title 2 of the Government Code. The protocol*  
2 *shall be developed and approved by January 1, 2016.*

3 *(e) The protocol shall be followed by all coroners throughout*  
4 *the state when conducting autopsies required by this section. The*  
5 *coroner shall state on the certificate of death that sudden*  
6 *unexpected death in childhood was the cause of death when the*  
7 *coroner's findings are consistent with the definition of sudden*  
8 *unexpected death in childhood specified in the standardized*  
9 *autopsy protocol. The protocol may include requirements and*  
10 *standards for scene investigations, requirements for specific data,*  
11 *criteria for ascertaining cause of death based on the autopsy,*  
12 *criteria for any specific tissue sampling, and any other*  
13 *requirements. The protocol may also require that specific tissue*  
14 *samples be provided to a central tissue repository designated by*  
15 *the State Department of Public Health.*

16 *(f) The State Department of Public Health shall establish*  
17 *procedures and protocols for access by researchers to any tissues*  
18 *or other material, or data authorized by this section. Research*  
19 *may be conducted by an individual with a valid scientific interest*  
20 *and prior approval from the State Committee for the Protection*  
21 *of Human Subjects. The tissue samples, the materials, and all data*  
22 *shall be subject to the confidentiality requirements of Section*  
23 *103850 of the Health and Safety Code.*

24 *(g) The coroner may take tissue samples for research purposes*  
25 *from children who have died suddenly and unexpectedly without*  
26 *consent of the responsible adult if the tissue removal is not likely*  
27 *to result in any visible disfigurement. The coroner shall notify the*  
28 *parent or responsible adult of the child about the importance of*  
29 *taking tissue samples.*

30 *(h) A coroner shall not be liable for damages in a civil action*  
31 *for any act or omission in compliance with this section.*

32 *(i) The consent of any person is not required prior to*  
33 *undertaking the autopsy required by this section.*

34 *SEC. 4. Section 13519.3 of the Penal Code is amended to read:*

35 *13519.3. (a) Effective July 1, 1990, the commission shall*  
36 *establish, for those peace officers specified in subdivision (a) of*  
37 *Section 13510 who are assigned to patrol or investigations, a course*  
38 *on the nature of sudden infant death syndrome and sudden*  
39 *unexpected death in childhood, and the handling of cases involving*  
40 *the sudden deaths of infants and the sudden unexpected deaths of*

1 *children*. The course shall include information on the community  
2 resources available to assist families and child care providers who  
3 have lost a child to sudden infant death syndrome *and sudden*  
4 *unexpected death in childhood*. Officers who are employed after  
5 January 1, 1990, shall complete a course in sudden infant death  
6 syndrome *and sudden unexpected death in childhood* prior to the  
7 issuance of the Peace Officer Standards and Training basic  
8 certificate, and shall complete training on ~~this topic~~ *those topics*  
9 on or before July 1, 1992.

10 (b) The commission, in consultation with experts in the field of  
11 sudden infant death syndrome *and sudden unexpected death in*  
12 *childhood*, shall prepare guidelines establishing standard  
13 procedures which may be followed by law enforcement agencies  
14 in the investigation of cases involving sudden deaths of infants  
15 *and sudden unexpected deaths of children*.

16 (c) The course relating to sudden infant death syndrome *and*  
17 *sudden unexpected death in childhood*, and the handling of cases  
18 of sudden infant deaths *and sudden unexpected deaths of children*  
19 shall be developed by the commission in consultation with experts  
20 in the field of sudden infant death syndrome *and sudden unexpected*  
21 *death in childhood*. The course shall include instruction in the  
22 standard procedures developed pursuant to subdivision (b). In  
23 addition, the course shall include information on the nature of  
24 sudden infant death syndrome *and sudden unexpected death in*  
25 *childhood*, which shall be taught by experts in the field of sudden  
26 infant death syndrome *and sudden unexpected death in childhood*.

27 (d) The commission shall review and modify the basic course  
28 curriculum to include sudden infant death syndrome *and sudden*  
29 *unexpected death in childhood* awareness as part of death  
30 investigation training.

31 (e) When the instruction and training are provided by a local  
32 agency, a fee shall be charged sufficient to defray the entire cost  
33 of instruction and training.

34 *SEC. 5. No reimbursement is required by this act pursuant to*  
35 *Section 6 of Article XIII B of the California Constitution for certain*  
36 *costs that may be incurred by a local agency or school district*  
37 *because, in that regard, this act creates a new crime or infraction,*  
38 *eliminates a crime or infraction, or changes the penalty for a crime*  
39 *or infraction, within the meaning of Section 17556 of the*  
40 *Government Code, or changes the definition of a crime within the*

1 *meaning of Section 6 of Article XIII B of the California*  
2 *Constitution.*

3 *However, if the Commission on State Mandates determines that*  
4 *this act contains other costs mandated by the state, reimbursement*  
5 *to local agencies and school districts for those costs shall be made*  
6 *pursuant to Part 7 (commencing with Section 17500) of Division*  
7 *4 of Title 2 of the Government Code.*

8 ~~SECTION 1. Section 27491.41 of the Government Code is~~  
9 ~~amended to read:~~

10 ~~27491.41. (a) For purposes of this section, “sudden infant~~  
11 ~~death syndrome” means the sudden death of any infant that is~~  
12 ~~unexpected by the history of the infant and where a thorough~~  
13 ~~postmortem examination fails to demonstrate an adequate cause~~  
14 ~~of death.~~

15 ~~(b) The Legislature finds and declares that sudden infant death~~  
16 ~~syndrome (SIDS) is the leading cause of death for children under~~  
17 ~~age one, striking one out of every 500 children. The Legislature~~  
18 ~~finds and declares that sudden infant death syndrome is a serious~~  
19 ~~problem within the State of California, and that public interest is~~  
20 ~~served by research and study of sudden infant death syndrome,~~  
21 ~~and its potential causes and indications.~~

22 ~~(c) (1) To facilitate these purposes, the coroner shall, within~~  
23 ~~24 hours or as soon thereafter as feasible, perform an autopsy in~~  
24 ~~any case where an infant has died suddenly and unexpectedly.~~

25 ~~(2) However, if the attending physician desires to certify that~~  
26 ~~the cause of death is sudden infant death syndrome, an autopsy~~  
27 ~~may be performed at the discretion of the coroner. If the coroner~~  
28 ~~performs an autopsy pursuant to this section, he or she shall also~~  
29 ~~certify the cause of death.~~

30 ~~(d) The autopsy shall be conducted pursuant to a standardized~~  
31 ~~protocol developed by the State Department of Public Health. The~~  
32 ~~protocol is exempt from the procedural requirements pertaining~~  
33 ~~to the adoption of administrative rules and regulations pursuant to~~  
34 ~~Article 5 (commencing with Section 11346) of Chapter 3.5 of Part~~  
35 ~~1 of Division 3 of Title 2 of the Government Code. The protocol~~  
36 ~~shall be developed and approved by July 1, 1990.~~

37 ~~(e) The protocol shall be followed by all coroners throughout~~  
38 ~~the state when conducting the autopsies required by this section.~~  
39 ~~The coroner shall state on the certificate of death that sudden infant~~  
40 ~~death syndrome was the cause of death when the coroner’s findings~~

1 are consistent with the definition of sudden infant death syndrome  
2 specified in the standardized autopsy protocol. The protocol may  
3 include requirements and standards for scene investigations,  
4 requirements for specific data, criteria for ascertaining cause of  
5 death based on the autopsy, and criteria for any specific tissue  
6 sampling, and any other requirements. The protocol may also  
7 require that specific tissue samples shall be provided to a central  
8 tissue repository designated by the State Department of Public  
9 Health.

10 (f) The State Department of Public Health shall establish  
11 procedures and protocols for access by researchers to any tissues,  
12 or other materials or data authorized by this section. Research may  
13 be conducted by an individual with a valid scientific interest and  
14 prior approval from the State Committee for the Protection of  
15 Human Subjects. The tissue samples, the materials, and all data  
16 shall be subject to the confidentiality requirements of Section  
17 103850 of the Health and Safety Code.

18 (g) The coroner may take tissue samples for research purposes  
19 from infants who have died suddenly and unexpectedly without  
20 consent of the responsible adult if the tissue removal is not likely  
21 to result in any visible disfigurement.

22 (h) A coroner shall not be liable for damages in a civil action  
23 for any act or omission done in compliance with this section.

24 (i) The consent of a person is not required prior to undertaking  
25 the autopsy required by this section.

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