**§ 4210-c. Limitations to dissection or autopsy.** 1. Notwithstanding any other provision of law, in the absence of a compelling public necessity, no dissection or autopsy shall be performed over the objection of a surviving relative or friend of the deceased that such procedure is contrary to the religious belief of the decedent, or, if there is otherwise reason to believe that a dissection or autopsy is contrary to the decedent's religious beliefs.

2. For the purposes of this section: (a) "compelling public necessity" shall mean:

(i) that the dissection or autopsy is essential to the conduct of a criminal investigation of a homicide, as defined in section 125.00 of the penal law, of which the decedent is the victim, or

(ii) that discovery of the cause of death is necessary to meet an immediate and substantial threat to the public health and that a dissection or autopsy is essential to ascertain the cause of death, or

(iii) that the need for a dissection or autopsy is established in accordance with subdivision five of this section.

(b) "relative" shall mean the person most closely related to the decedent by consanguinity or affinity. In the event such person is unavailable, the objection may be raised on his behalf by the next most closely related person. The official who has authority to order a dissection or autopsy of the decedent's body may require a relative to present an affidavit stating his relationship to the decedent, the religious affiliation of the decedent, if any, that the decedent had religious objections to an autopsy, the basis for such belief, and that he will assume responsibility for the lawful disposition of the body of the deceased.

(c)"friend" shall mean any person who, prior to the decedent's death, maintained such regular contact with the decedent as to be familiar with his activities, health and religious beliefs and who presents an affidavit stating the facts and circumstances upon which the claim that he is such friend is based, the religious affiliation of the decedent, if any, that the decedent had religious objections to an autopsy, the basis for such belief, and that he will assume responsibility for the lawful disposition of the body of the deceased.

3. All dissections or autopsies performed pursuant to this section shall be the least intrusive procedure consistent with the compelling state interest as defined herein.

4. Except as provided in subdivision three of section forty-two hundred ten of this article, no dissection or autopsy shall be performed over the objection of a surviving relative or friend that such autopsy is contrary to the religious beliefs of the deceased, or where there is otherwise reason to believe that a dissection or autopsy is contrary to the decedent's religious beliefs, until notice thereof is given to the next of kin or friend as defined herein, or until forty-eight hours have elapsed, whichever is greater, to permit an objecting party to institute legal proceedings to determine the propriety of such dissection or autopsy; provided, however, that a court upon ex parte motion may dispense with the waiting period if it determines that such delay may prejudice the accuracy of the autopsy or dissection or if the objecting party is a suspect in the homicide.

5. Whenever any coroner or medical examiner shall deem it necessary to perform an autopsy over the objection of a surviving relative or friend that such autopsy is contrary to the religious beliefs of the deceased, or where there is otherwise reason to believe that a dissection or autopsy is contrary to the decedent's religious beliefs, in circumstances not provided for in subparagraphs (i) and (ii) of paragraph (a) of subdivision two of this section, he may institute a special proceeding, without fee, in the supreme court or county court for an order authorizing such autopsy. Such proceeding shall be instituted as soon as practicable, brought on by an order to show cause on notice to the next of kin or friend, or if none is known to the petitioner, then to such party as the court may direct, returnable at the earliest possible time. The proceeding shall have preference over all other cases in the court and shall be determined summarily upon the petition and such oral or written proof as may be offered by the parties. The court shall grant the relief sought in the petition if it finds that the petitioner had established a demonstrable need for such autopsy or dissection under all circumstances of the case. If the petition is denied, and no stay is granted by the court or the appellate

division, the body shall immediately be released for burial to the surviving relative or friend.