

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



SENATE BILL 18-223

BY SENATOR(S) Gardner, Coram, Fenberg, Fields, Cooke, Crowder, Lambert, Marble, Martinez Humenik, Neville T., Scott, Smallwood, Tate, Todd, Grantham;
also REPRESENTATIVE(S) Gray and Carver, Benavidez, Winkler.

CONCERNING THE CIRCUMSTANCES UNDER WHICH AN AUTOPSY REPORT
PREPARED IN CONNECTION WITH THE DEATH OF A MINOR MAY BE
RELEASED TO CERTAIN PARTIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 30-10-606.7 as follows:

30-10-606.7. Autopsy reports - death of a minor - confidential - exceptions - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AUTOPSY REPORT" MEANS THE REPORT OF THE CORONER OR THE CORONER'S DESIGNEE ON THE POST-MORTEM EXAMINATION OF A DECEASED INDIVIDUAL TO DETERMINE THE CAUSE OR MANNER OF DEATH, INCLUDING ANY WRITTEN ANALYSIS, DIAGRAM, PHOTOGRAPH, OR TOXICOLOGICAL TEST RESULTS.

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) "MINOR" MEANS A PERSON UNDER THE AGE OF EIGHTEEN YEARS.

(2) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN AUTOPSY REPORT PREPARED IN CONNECTION WITH THE DEATH OF A MINOR IS CONFIDENTIAL AND MAY BE DISCLOSED BY THE CORONER TO ANY OTHER PERSON OR ENTITY ONLY IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

(b) THE CORONER OR HIS OR HER DESIGNEE MAY ONLY PROVIDE A COPY OF THE AUTOPSY REPORT PREPARED IN CONNECTION WITH THE DEATH OF A MINOR TO:

(I) A PARENT OR LEGAL GUARDIAN OF THE DECEASED IF THE PARENT OR LEGAL GUARDIAN SUBMITS A COPY OF A WRITTEN REQUEST TO THE CORONER FOR A COPY OF THE REPORT IN ADDITION TO AN AFFIDAVIT, SIGNED BY THE PARENT OR LEGAL GUARDIAN UNDER THE PENALTY OF PERJURY, VERIFYING HIS OR HER RELATIONSHIP TO THE DECEDENT;

(II) A LAW ENFORCEMENT OR CRIMINAL JUSTICE AGENCY, INCLUDING A DISTRICT ATTORNEY, THAT IS EITHER INVESTIGATING THE DEATH OR PROSECUTING A CRIMINAL VIOLATION ARISING OUT OF THE DEATH UPON THE REQUEST OF THE LAW ENFORCEMENT OR CRIMINAL JUSTICE AGENCY, INCLUDING A DISTRICT ATTORNEY;

(III) A REQUESTING PARTY IN A CIVIL CASE WHERE THE MOVING PARTY DEMONSTRATES TO THE COURT THAT THE AUTOPSY REPORT IS DISCOVERABLE IN ACCORDANCE WITH RULE 26 (b)(1) OF THE COLORADO RULES OF CIVIL PROCEDURE, UPON THE ENTRY OF A SPECIFIC ORDER OF THE COURT AUTHORIZING DISCLOSURE OF THE AUTOPSY REPORT, AND IN ACCORDANCE WITH ANY PROTECTIVE ORDER NECESSARY TO LIMIT DISCLOSURE OF THE IDENTITY OF THE DECEASED AND OTHER IDENTIFYING PERSONAL INFORMATION;

(IV) COUNSEL FOR THE DEFENDANT, OR THE DEFENDANT IF HE OR SHE IS NOT REPRESENTED BY COUNSEL, FOR DISCOVERY PURPOSES IN A CRIMINAL CASE UPON THE ENTRY OF A SPECIFIC ORDER OF THE COURT AUTHORIZING DISCLOSURE OF THE AUTOPSY REPORT IN ACCORDANCE WITH RULE 16 OF THE COLORADO RULES OF CRIMINAL PROCEDURE ONLY IF DISCOVERY HAS NOT OTHERWISE BEEN PROVIDED TO COUNSEL OR THE

DEFENDANT;

(V) A STATE CHILD FATALITY PREVENTION REVIEW TEAM ESTABLISHED PURSUANT TO SECTION 25-20.5-406 OR A LOCAL OR REGIONAL CHILD FATALITY PREVENTION REVIEW TEAM ESTABLISHED PURSUANT TO SECTION 25-20.5-404 UPON THE REQUEST OF THE APPLICABLE REVIEW TEAM;

(VI) THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AS NECESSARY FOR THE COLLECTION OF DATA IN ACCORDANCE WITH THE COLORADO VIOLENT DEATH REPORTING SYSTEM;

(VII) THE COLORADO CHILD FATALITY REVIEW TEAM, DEFINED AS "TEAM" IN SECTION 26-1-139 (2)(e), UPON THE REQUEST OF THE REVIEW TEAM;

(VIII) A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES IN CONNECTION WITH THE INVESTIGATION OF AN INCIDENCE OF ALLEGED ABUSE OR NEGLECT OF A MINOR;

(IX) THE DIVISION OF YOUTH SERVICES IN THE DEPARTMENT OF HUMAN SERVICES IN CONNECTION WITH THE INVESTIGATION OF A FATALITY THAT HAS OCCURRED WITHIN A STATE OWNED OR OPERATED FACILITY;

(X) A HEALTH CARE FACILITY THAT IS LICENSED OR CERTIFIED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 3 OF TITLE 25 AT WHICH FACILITY THE DECEASED HAD PREVIOUSLY RECEIVED TREATMENT;

(XI) A COMMUNITY CLINIC AS DEFINED IN SECTION 25-1.5-103 (2)(a.5) OR A TREATING HOSPITAL FOR INCLUSION WITHIN THE MEDICAL RECORDS OF THE DECEASED;

(XII) AN EYE BANK, AN ORGAN PROCUREMENT ORGANIZATION, OR A TISSUE BANK, AS THOSE TERMS ARE DEFINED IN SECTION 15-19-202 (10), (16), AND (31), RESPECTIVELY;

(XIII) A LOCAL OR REGIONAL DOMESTIC VIOLENCE FATALITY REVIEW TEAM AS DEFINED BY THE TERM "REVIEW TEAM" IN SECTION 24-31-701 (4) OR THE COLORADO DOMESTIC VIOLENCE FATALITY REVIEW BOARD CREATED IN SECTION 24-31-702 (1) UPON THE REQUEST OF A TEAM OR THE BOARD, AS APPLICABLE;

(XIV) THE COLORADO DEPARTMENT OF HUMAN SERVICES IN CONNECTION WITH THE INVESTIGATION OF A FATALITY THAT HAS OCCURRED WITHIN ANY FACILITY THAT IS LICENSED UNDER THE "CHILD CARE LICENSING ACT", PART 1 OF ARTICLE 6 OF TITLE 26;

(XV) THE OFFICE OF THE CHILD PROTECTION OMBUDSMAN ESTABLISHED IN SECTION 19-3.3-102 (1)(a); OR

(XVI) A HEALTH CARE PROVIDER LICENSED IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 12 THAT HAD PREVIOUSLY ESTABLISHED A PATIENT-PROVIDER RELATIONSHIP WITH THE DECEASED.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, ANY PERSON MAY PETITION A DISTRICT COURT TO ALLOW THE PERSON ACCESS TO AN AUTOPSY REPORT PREPARED IN CONNECTION WITH THE DEATH OF A MINOR ON THE GROUNDS THAT DISCLOSURE OF THE REPORT CONSTITUTES A SIGNIFICANT PUBLIC BENEFIT. THE DISTRICT COURT SHALL GRANT THE PETITIONER ACCESS TO THE REPORT UPON A FINDING THAT:

(a) PUBLIC DISCLOSURE OF THE REPORT OUTWEIGHS THE PRIVACY INTERESTS OF THE DECEASED AND THE MEMBERS OF THE FAMILY OF THE DECEASED; AND

(b) THE INFORMATION SOUGHT BY THE PETITIONER IS NOT OTHERWISE PUBLICLY AVAILABLE.

SECTION 2. Effective date - applicability. This act takes effect July 1, 2018, and applies to a request for an autopsy report submitted on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO