

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 18-1132.01 Bob Lackner x4350

SENATE BILL 18-223

SENATE SPONSORSHIP

Gardner, Coram, Fenberg, Fields

HOUSE SPONSORSHIP

Gray and Carver, Benavidez

Senate Committees
Judiciary

House Committees
Judiciary

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill specifies that an autopsy report prepared in connection with the death of a minor is confidential and may be disclosed by the county coroner to any other person or entity only in accordance with certain exceptions.

Under the bill, the coroner or his or her designee may only provide

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
May 8, 2018

HOUSE
Amended 2nd Reading
May 7, 2018

SENATE
3rd Reading Unamended
April 19, 2018

SENATE
Amended 2nd Reading
April 18, 2018

a copy of the autopsy report prepared in connection with the death of a minor to:

- ! 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;
- ! 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;
- ! A requesting party in a civil case where the moving party demonstrates to the court that the autopsy report is discoverable in accordance with 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;
- ! Counsel for the defendant or the respondent 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 the relevant rules of criminal procedure;
- ! A law enforcement agency that is investigating the death upon the request of the law enforcement agency;
- ! A local or regional child fatality prevention review team upon the request of the review team; or
- ! The Colorado department of public health and environment as necessary for the collection of data in accordance with the Colorado violent death reporting system.

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

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

4 **30-10-606.7. Autopsy reports - death of a minor - confidential**
5 **- exceptions - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7 (a) "AUTOPSY REPORT" MEANS THE REPORT OF THE CORONER OR

1 THE CORONER'S DESIGNEE ON THE POST-MORTEM EXAMINATION OF A
2 DECEASED INDIVIDUAL TO DETERMINE THE CAUSE OR MANNER OF DEATH,
3 INCLUDING ANY WRITTEN ANALYSIS, DIAGRAM, PHOTOGRAPH, OR
4 TOXICOLOGICAL TEST RESULTS.

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

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

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

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

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

25 (III) A REQUESTING PARTY IN A CIVIL CASE WHERE THE MOVING
26 PARTY DEMONSTRATES TO THE COURT THAT THE AUTOPSY REPORT IS
27 DISCOVERABLE IN ACCORDANCE WITH RULE 26 (b)(1) OF THE COLORADO

1 RULES OF CIVIL PROCEDURE, UPON THE ENTRY OF A SPECIFIC ORDER OF THE
2 COURT AUTHORIZING DISCLOSURE OF THE AUTOPSY REPORT, AND IN
3 ACCORDANCE WITH ANY PROTECTIVE ORDER NECESSARY TO LIMIT
4 DISCLOSURE OF THE IDENTITY OF THE DECEASED AND OTHER IDENTIFYING
5 PERSONAL INFORMATION;

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

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

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

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

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

27 (IX) THE DIVISION OF YOUTH SERVICES IN THE DEPARTMENT OF

1 HUMAN SERVICES IN CONNECTION WITH THE INVESTIGATION OF A
2 FATALITY THAT HAS OCCURRED WITHIN A STATE OWNED OR OPERATED
3 FACILITY:

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

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

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

13 (XIII) A LOCAL OR REGIONAL DOMESTIC VIOLENCE FATALITY
14 REVIEW TEAM AS DEFINED BY THE TERM "REVIEW TEAM" IN SECTION
15 24-31-701 (4) OR THE COLORADO DOMESTIC VIOLENCE FATALITY REVIEW
16 BOARD CREATED IN SECTION 24-31-702 (1) UPON THE REQUEST OF A TEAM
17 OR THE BOARD, AS APPLICABLE;

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

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

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

27 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,

1 ANY PERSON MAY PETITION A DISTRICT COURT TO ALLOW THE PERSON
2 ACCESS TO AN AUTOPSY REPORT PREPARED IN CONNECTION WITH THE
3 DEATH OF A MINOR ON THE GROUNDS THAT DISCLOSURE OF THE REPORT
4 CONSTITUTES A SIGNIFICANT PUBLIC BENEFIT. THE DISTRICT COURT SHALL
5 GRANT THE PETITIONER ACCESS TO THE REPORT UPON A FINDING THAT:

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

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

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

14 **SECTION 3. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.