

An Act

HOUSE BILL 24-1244

BY REPRESENTATIVE(S) Winter T. and Snyder, Armagost, Bird, Boesenecker, Duran, Jodeh, Kipp, Lindsay, Lukens, Parenti, Weinberg, Weissman, Young, McCluskie, Amabile, Bacon, Bradley, Epps, Hamrick, Herod, Lieder, Mabrey, McLachlan, Pugliese, Titone; also SENATOR(S) Michaelson Jenet and Gardner, Buckner, Cutter, Ginal, Gonzales, Kirkmeyer, Liston, Lundeen, Marchman, Priola, Smallwood.

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

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

INDIVIDUAL TO DETERMINE THE CAUSE OR MANNER OF DEATH, INCLUDING ANY WRITTEN ANALYSIS, DIAGRAM, PHOTOGRAPH, OR TOXICOLOGICAL TEST RESULTS.

(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 NOT A PUBLIC RECORD AS DEFINED IN PART 2 OF ARTICLE 72 OF TITLE 24.

(b) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2)(a) OF THIS SECTION, UPON WRITTEN REQUEST OF ONE OF THE INDIVIDUALS OR ENTITIES SPECIFIED IN THIS SUBSECTION (2)(b), THE CORONER OR THE CORONER'S DESIGNEE SHALL PROVIDE A COPY OF THE AUTOPSY REPORT PREPARED IN CONNECTION WITH THE DEATH OF A MINOR ONLY TO SUCH REQUESTING INDIVIDUAL OR ENTITY. SUCH INDIVIDUALS OR ENTITIES ARE AS FOLLOWS:

(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 AND AN AFFIDAVIT, SIGNED BY THE PARENT OR LEGAL GUARDIAN UNDER THE PENALTY OF PERJURY, VERIFYING THE PARENT'S OR LEGAL GUARDIAN'S 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 THE

DEFENDANT 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 AND IN ACCORDANCE WITH ANY PROTECTIVE ORDER NECESSARY TO LIMIT DISCLOSURE OF THE IDENTITY OF THE DECEASED AND OTHER PERSONALLY IDENTIFYING INFORMATION;

(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 NATIONAL VIOLENT DEATH REPORTING SYSTEM AND THE COLORADO UNINTENTIONAL DRUG OVERDOSE REPORTING SYSTEM;

(VII) THE COLORADO CHILD FATALITY REVIEW TEAM, AS DEFINED 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 INCIDENT 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 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 3 OF ARTICLE 5 OF TITLE 26.5;

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

(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;

(XVII) THE COLORADO MATERNAL MORTALITY REVIEW COMMITTEE CREATED IN SECTION 25-52-104 (1) FOR THE PURPOSE OF CONDUCTING PUBLIC HEALTH DEATH REVIEWS OF DECEASED INDIVIDUALS WHO ARE PREGNANT OR WITHIN ONE YEAR POSTPARTUM;

(XVIII) THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND COUNTY PUBLIC HEALTH AGENCIES AS DESCRIBED IN SECTION 25-1-506 FOR THE PURPOSE OF DATA COLLECTION AS IT RELATES TO THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT'S AUTHORITY UNDER SECTION 25-1.5-102 AND SUBSEQUENT BOARD OF HEALTH RULES;

(XIX) THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT'S HEALTH FACILITY AND EMERGENCY MEDICAL SERVICES DIVISION FOR THE PURPOSE OF HEALTH FACILITIES AND EMERGENCY MEDICAL SERVICES INVESTIGATIONS; OR

(XX) THE PUBLIC IF THE DEATH OCCURS WHILE THE MINOR IS IN THE CUSTODY OR UNDER THE SUPERVISION OF THE STATE OR A LOCAL GOVERNMENT, INCLUDING A LAW ENFORCEMENT AGENCY, A DETENTION FACILITY, WHILE UNDER FOSTER CARE, OR IN A PUBLIC SCHOOL.

(3) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, UPON WRITTEN REQUEST BY ANY INDIVIDUAL, A CORONER SHALL NOT RELEASE A COPY OF THE AUTOPSY REPORT PREPARED IN CONNECTION WITH THE DEATH OF A MINOR, AND SHALL INSTEAD RELEASE THE FOLLOWING INFORMATION PERTAINING TO THE DEATH OF A MINOR:

(I) CAUSE OF DEATH;

(II) TIME, PLACE, AND MANNER OF DEATH;

(III) AGE, GENDER, AND RACE OR ETHNICITY OF THE DECEASED MINOR; AND

(IV) NAME OF THE DECEASED MINOR.

(b) THE CORONER SHALL RELEASE THE INFORMATION REQUIRED IN SUBSECTIONS (3)(a)(I) TO (3)(a)(IV) OF THIS SECTION WITHIN THREE BUSINESS DAYS OF RECEIPT OF THE WRITTEN REQUEST OR THREE BUSINESS DAYS AFTER RECEIVING THE INFORMATION, WHICHEVER IS LATER. IF THE INFORMATION IS INCOMPLETE WHEN RELEASED, THE CORONER SHALL DISCLOSE THAT ANY MISSING INFORMATION REMAINS UNDER INVESTIGATION OR IS OTHERWISE UNKNOWN.

(4) (a) 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. THE PETITIONER SHALL SERVE PROCESS ON THE CORONER AND A MEMBER OF THE DECEASED MINOR'S NEXT OF KIN PURSUANT TO THE C.R.C.P. FOR PURPOSES OF THIS SUBSECTION (4), "NEXT OF KIN" MAY INCLUDE A PARENT, STEPPARENT, LEGAL GUARDIAN, GRANDPARENT, AUNT, UNCLE, SIBLING, OR LAWFUL REPRESENTATIVE OF THE DECEASED MINOR. THE DISTRICT COURT SHALL HOLD A HEARING THAT INCLUDES THE PETITIONER, CORONER, AND A MEMBER OF THE DECEASED MINOR'S NEXT OF KIN, IF AVAILABLE. THE HEARING MUST BE CONDUCTED IN ACCORDANCE WITH THE APPLICABLE RULES OF THE C.R.C.P. THAT GOVERN THE SIMPLIFIED PROCEDURE FOR CIVIL ACTIONS AND SHALL NOT INCLUDE A JURY. THE DISTRICT COURT SHALL GRANT THE PETITIONER ACCESS TO THE REPORT UPON A FINDING THAT:

(I) PUBLIC DISCLOSURE OF THE REPORT SUBSTANTIALLY OUTWEIGHS

ANY HARM TO THE PRIVACY INTERESTS OF THE DECEASED AND THE MEMBERS OF THE FAMILY OF THE DECEASED; AND

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

(b) UPON RECEIPT OF A PETITION BY PROPER SERVICE OF PROCESS, A CORONER SHALL DISCLOSE THE NAME OF THE DECEASED MINOR AND THE NAME AND ADDRESS OF A MEMBER OF THE DECEASED MINOR'S NEXT OF KIN FOR WHOM THE AUTOPSY REPORT IS SOUGHT, IF AVAILABLE, TO THE DISTRICT COURT, WHICH SHALL DISCLOSE THE NAME AND ADDRESS TO THE PETITIONER UNDER A PROTECTIVE ORDER PROHIBITING THE PETITIONER FROM DISCLOSING THE NAME AND ADDRESS TO ANYONE EXCEPT FOR THE PURPOSE OF SERVING PROCESS TO A MEMBER OF THE DECEASED MINOR'S NEXT OF KIN PURSUANT TO THIS SUBSECTION (4)(b).

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect January 1, 2025; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect January 1, 2025, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

(2) This act applies to a request for an autopsy report or information pertaining to the death of a minor submitted on or after the applicable effective date of this act.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO