

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4217**

BY DELEGATES ELLINGTON, SOBONYA, ATKINSON, QUEEN,  
SUMMERS, WHITE, WESTFALL, DEAN, CRISS, ROHRBACH AND FRICH

[Passed March 10, 2018; in effect ninety days from passage.]



1 AN ACT to amend and reenact §61-12-10 of the Code West Virginia, 1931, as amended, relating  
2 to permitting a designated representative of a hospital or an attending physician to obtain  
3 a patient's autopsy report.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 12. POSTMORTEM EXAMINATIONS.**

**§61-12-10. When autopsies made and by whom performed; records of date investigated;  
copies of records and information; reporting requirements.**

1 (a) If in the opinion of the chief medical examiner, or of the county medical examiner of  
2 the county in which the death in question occurred, it is advisable and in the public interest that  
3 an autopsy be made, or if an autopsy is requested by either the prosecuting attorney or the judge  
4 of the circuit court or other court of record having criminal jurisdiction in that county, an autopsy  
5 shall be conducted by the chief medical examiner or his or her designee, by a member of his or  
6 her staff, or by a competent pathologist designated and employed by the chief medical examiner  
7 under the provisions of this article. For this purpose, the chief medical examiner may employ any  
8 county medical examiner who is a pathologist who holds board certification or board eligibility in  
9 forensic pathology or has completed an American Board of Pathology fellowship in forensic  
10 pathology to make the autopsies, and the fees to be paid for autopsies under this section shall be  
11 in addition to the fee provided for investigations pursuant to §61-12-8. A full record and report of  
12 the findings developed by the autopsy shall be filed with the office of the chief medical examiner  
13 by the person making the autopsy.

14 (b) Within the discretion of the chief medical examiner, or of the person making the  
15 autopsy, or if requested by the prosecuting attorney of the county, or of the county where any  
16 injury contributing to or causing the death was sustained, a copy of the report of the autopsy shall  
17 be furnished to the prosecuting attorney.

18 (c) The office of the chief medical examiner shall keep full, complete and properly indexed  
19 records of all deaths investigated, containing all relevant information concerning the death and

20 the autopsy report if an autopsy report is made. Any prosecuting attorney or law-enforcement  
21 officer may secure copies of these records or information necessary for the performance of his or  
22 her official duties.

23 (d) Copies of these records or information shall be furnished, upon request, to any court  
24 of law, or to the parties therein to whom the cause of death is a material issue, except where the  
25 court determines that interests in a civil matter conflict with the interests in a criminal proceeding,  
26 in which case the interests in the criminal proceeding shall take precedence. The office of chief  
27 medical examiner shall be reimbursed a reasonable rate by the requesting party for costs incurred  
28 in the production of records under this subsection, and subsection (c), (f) and (g) of this section.

29 (e) The chief medical examiner is authorized to release investigation records and autopsy  
30 reports to the multidisciplinary team authorized by §49-4-402 and as authorized in subsection (j)  
31 of this section. At the direction of the Secretary of the Department of Health and Human  
32 Resources the chief medical examiner may release records and information to other state  
33 agencies when considered to be in the public interest.

34 (f) The chief medical examiner is authorized to release a copy of the autopsy and  
35 toxicology reports upon the request from a designated representative of a hospital as defined in  
36 §16-2D-2 of this code, to said facility who has reported a death under the provisions of §61-12-8  
37 for purposes of quality review and medical record completion.

38 (g) The chief medical examiner is authorized to release a copy of the autopsy and  
39 toxicology reports upon the request of an attending physician as defined in §16-30C-3 of this  
40 code, to said physician whose patient has died for purposes of quality review and medical record  
41 completion.

42 (h) Any person performing an autopsy under this section may keep and retain, for and on  
43 behalf of the chief medical examiner, any tissue from the body upon which the autopsy was  
44 performed which may be necessary for further study or consideration.

45           (i) In cases of the death of any infant in the State of West Virginia where sudden infant  
46 death syndrome is the suspected cause of death and the chief medical examiner or the medical  
47 examiner of the county in which the death in question occurred considers it advisable to perform  
48 an autopsy, it is the duty of the chief medical examiner or the medical examiner of the county in  
49 which the death occurred to notify the sudden infant death syndrome program within the division  
50 of maternal and child health and to inform the program of all information to be given to the infant's  
51 parents.

52           (j) If the chief medical officer determines that a drug overdose is the cause of death of a  
53 person, the chief medical examiner shall provide notice of the death to the West Virginia  
54 Controlled Substances Monitoring Program Database Review Committee established pursuant  
55 to §60A-9-5(b) and shall include in the notice any information relating to the cause of the fatal  
56 overdose.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2018.

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*Governor*