

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5614

By Delegate Kelly

[Introduced February 12, 2024; Referred to the Committee
on Health and Human Resources]

1 A BILL to amend and reenact §61-12-10 of the Code of West Virginia, 1931, as amended, relating
2 to postmortem examinations.

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 the
2 county in which the death in question occurred, it is advisable and in the public interest that an
3 autopsy be made, or if an autopsy is requested by either the prosecuting attorney or the judge of
4 the circuit court or other court of record having criminal jurisdiction in that county, an autopsy shall
5 be conducted by the chief medical examiner or his or her designee, by a member of his or her staff,
6 or by a competent pathologist designated and employed by the chief medical examiner under the
7 provisions of this article. When requested by either the prosecuting attorney or judge of the circuit
8 court or other court of record having criminal jurisdiction in that county, the autopsy shall be
9 conducted within 72 hours of the time the request was received by the Office of the Chief Medical
10 Examiner. For this purpose, the chief medical examiner may employ any county medical examiner
11 who is a pathologist who holds board certification or board eligibility in forensic pathology or has
12 completed an American Board of Pathology fellowship in forensic pathology to make the
13 autopsies, and the fees to be paid for autopsies under this section shall be in addition to the fee
14 provided for investigations pursuant to §61-12-8 of this code. A full record and report of the
15 findings developed by the autopsy shall be filed with the office of the chief medical examiner by the
16 person making the autopsy.

17 ~~(b) Within the discretion of the chief medical examiner, or of the person making the~~
18 ~~autopsy, or if requested by the prosecuting attorney of the county, or of the county where any injury~~
19 ~~contributing to or causing the death was sustained, a copy of the report of the autopsy shall be~~
20 ~~furnished to the prosecuting attorney~~ Within 24 hours of completion, a copy of the report of

21 autopsy, including any death investigation reports made by the county level medical examiner
22 submitted to the Office of the Chief Medical Examiner, shall be furnished to the prosecuting
23 attorney of the county, or of the county where any injury contributing or causing the death was
24 sustained.

25 (c) The Office of the Chief Medical Examiner shall keep full, complete and properly indexed
26 records of all deaths investigated, containing all relevant information concerning the death and the
27 autopsy report if an autopsy report is made. Any prosecuting attorney or law-enforcement officer
28 may secure copies of these records or information necessary for the performance of his or her
29 official duties.

30 (d) Copies of these records or information shall be furnished, upon request, to any court of
31 law, or to the parties therein to whom the cause of death is a material issue, except where the court
32 determines that interests in a civil matter conflict with the interests in a criminal proceeding, in
33 which case the interests in the criminal proceeding shall take precedence. The Office of Chief
34 Medical Examiner shall be reimbursed a reasonable rate by the requesting party for costs incurred
35 in the production of records under this subsection, and subsection (c), (f), and (g) of this section.

36 (e) The chief medical examiner may release investigation records and autopsy reports to
37 the multidisciplinary team authorized by §49-4-402 of this code and as authorized in subsection (j)
38 of this section. The chief medical examiner may release records and information to other state
39 agencies when considered to be in the public interest.

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

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

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

50 (i) In cases of the death of any infant, where sudden infant death syndrome is the
51 suspected cause of death and the chief medical examiner or the medical examiner of the county in
52 which the death in question occurred considers it advisable to perform an autopsy, it is the duty of
53 the chief medical examiner or the medical examiner of the county in which the death occurred to
54 notify the sudden infant death syndrome program within the Division of Maternal and Child Health
55 and to inform the program of all information to be given to the infant's parents.

56 (j) If the chief medical examiner determines that a drug overdose is the cause of death of a
57 person, the chief medical examiner shall provide notice of the death to the West Virginia
58 Controlled Substances Monitoring Program Database Review Committee established pursuant to
59 §60A-9-5(b) and shall include in the notice any information relating to the cause of the fatal
60 overdose.

NOTE: The purpose of this bill is to impose deadlines for the Office of the Chief Medical Examiner to perform an autopsy and provide a copy of the autopsy report.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.