

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 779

BY SENATORS WELD AND DEEDS

[Introduced February 14, 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
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. When requested by either the prosecuting attorney or judge
8 of the circuit court or other court of record having criminal jurisdiction in that county, the autopsy
9 shall be conducted within 72 hours of the time the request was received by the Office of the Chief
10 Medical Examiner: *Provided*, That the body is in the possession of the chief medical examiner
11 when such request is made. For this purpose, the chief medical examiner may employ any county
12 medical examiner who is a pathologist who holds board certification or board eligibility in forensic
13 pathology or has completed an American Board of Pathology fellowship in forensic pathology to
14 make the autopsies, and the fees to be paid for autopsies under this section shall be in addition
15 to the fee provided for investigations pursuant to §61-12-8 of this code. A full record and report of
16 the findings developed by the autopsy shall be filed with the Office of the Chief Medical Examiner
17 by the person making the autopsy.

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

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

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

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

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

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

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

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

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

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