

2018 Regular Session

HOUSE BILL NO. 160

BY REPRESENTATIVE FOIL AND SENATOR CLAITOR

CORONERS: Provides relative to death investigation documents

1 AN ACT

2 To amend and reenact R.S. 13:5713(C)(1)(c), (E)(1), (I), and (J) and R.S. 44:19(A)(3), to
3 enact R.S. 44:19(E), and to repeal R.S. 13:5713(K), (L), and (M) and 5714(C),
4 relative to coroners; to provide for requirements of certain death investigation
5 documents; to provide relative to autopsy reports; to provide relative to notification
6 requirements; to provide relative to public records; to provide relative to duties of
7 coroners; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 13:5713(C)(1)(c), (E)(1), (I), and (J) are hereby amended and
10 reenacted to read as follows:

11 §5713. Duties; autopsies; investigations

12 * * *

13 C.(1)

14 * * *

15 (c) The coroner shall furnish a death certificate based upon his autopsy with
16 his statement, to the best of his knowledge, of the cause and ~~means~~ manner of death.

17 * * *

18 E.(1) The coroner shall furnish a death certificate based on his examination,
19 investigation, or autopsy, and he shall state as best he can the cause and ~~means~~
20 manner of death.

21 * * *

1 I. ~~The coroner shall furnish a copy of his final report or autopsy report, or~~
2 ~~both, upon written request, to the last attending physician of the deceased or to the~~
3 ~~designated family physician of the deceased, provided that the family of the deceased~~
4 ~~has given written authorization to the coroner or to the requesting physician for the~~
5 ~~release of such report.~~

6 ~~J.(1) Autopsy reports prepared by the coroner or his designee are public~~
7 ~~records. The coroner shall provide one copy of the autopsy report, records, writings,~~
8 ~~and documents of any description in any way compiled, drafted or recorded in~~
9 ~~connection with an autopsy upon request by the spouse, parent, sibling, child,~~
10 ~~grandchild, niece, nephew, aunt or uncle. If there is no surviving spouse, parent,~~
11 ~~sibling, child, grandchild, niece, nephew, aunt or uncle, then the coroner shall~~
12 ~~provide one copy of the autopsy report upon request to the next of kin. The coroner~~
13 ~~shall provide copies of the autopsy report, records, writings, and documents of any~~
14 ~~description in any way compiled, drafted or recorded in connection with an autopsy~~
15 ~~at no charge to the appropriate law enforcement agencies as requested. The public~~
16 ~~records fee for any other copy of an autopsy report shall be the same as that charged~~
17 ~~by the registrar of vital records for the state for a death certificate. The records,~~
18 ~~writings, and documents of any descriptions in any way compiled, drafted, or~~
19 ~~recorded in connection with an autopsy shall be provided by the coroner upon~~
20 ~~payment of a reasonable copying charge pursuant to R.S. 40:1165.1. The autopsy~~
21 ~~report shall be provided to relatives as provided in this Section at no charge.~~

22 ~~(2) The provisions of this Subsection shall not apply to the medical records~~
23 ~~of the decedent.~~

24 ~~(3) Notwithstanding the provisions of this Subsection, records, writings, and~~
25 ~~documents of any description in any way compiled, drafted, or recorded in~~
26 ~~connection with an autopsy which are generated by any public entity other than the~~
27 ~~coroner shall be obtained from the public entity generating those records, writings,~~
28 ~~and documents in accordance with other applicable provisions of law.~~

1 ~~K.(1) For the purposes of this Section, an autopsy report is the work product~~
2 ~~of the coroner or his designee. When a coroner investigates a death, the office of the~~
3 ~~coroner is required to make available for public inspection and copying the autopsy~~
4 ~~report which shall contain the following:~~

5 ~~(a) Name, age, sex, race, and address of the deceased.~~

6 ~~(b) Date and reported time of death.~~

7 ~~(c) Physical location, including address if available, where the deceased was~~
8 ~~found.~~

9 ~~(d) Date, time, and place of autopsy, and the name of the doctor performing~~
10 ~~the autopsy and the names of all persons present at the autopsy.~~

11 ~~(e) Information regarding the autopsy, including whether the autopsy was~~
12 ~~requested or performed by operation of law, a listing of the physical findings of the~~
13 ~~autopsy, a summary in narrative form of the medical findings and conclusions, the~~
14 ~~cause of death, the manner and mechanism of death, and the classification of death~~
15 ~~as homicide, accidental, suicide, undetermined, or under investigation.~~

16 ~~(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, in~~
17 ~~a non-coroner case, no autopsy report shall be made available for public inspection~~
18 ~~or copying if the classification of death is that of natural causes except upon request~~
19 ~~by the next of kin or upon request in compliance with R.S. 13:3715.1.~~

20 ~~(3) Notwithstanding the provisions of Paragraph (1) of this Subsection and~~
21 ~~notwithstanding the provisions of R.S. 13:5714(C), no autopsy report pertaining to~~
22 ~~criminal litigation as defined in and in accordance with R.S. 44:3(A) shall be~~
23 ~~required to be made available for public inspection or copying except as otherwise~~
24 ~~provided by law.~~

25 ~~L.(1) Liability shall not be imposed on an elected coroner or his support staff~~
26 ~~based upon the exercise or performance or the failure to exercise or perform their~~
27 ~~policymaking or discretionary acts when such acts are within the course and scope~~
28 ~~of their lawful powers and duties.~~

1 (3) The provisions of Paragraph (1) of this Subsection shall not apply to a
2 death certificate, ~~final report of a coroner, or autopsy report~~ fact of death letter, or
3 coroner's report.

4 * * *

5 E. Coroner death investigation documents shall include the following:

6 (1) A fact of death letter is a written statement attesting to the fact of death,
7 which shall constitute proof of death for all purposes, including but not limited to
8 any claim under any policy of insurance issued on the life of the deceased individual.
9 The fact of death letter shall be a public record.

10 (2) A death investigation report is the work product of the coroner and is an
11 internal document that comprehensively records the findings and all known
12 information about the case created by both the investigative and administrative staff
13 of the coroner's office. The death investigation report is not a public document.
14 However, it shall be made available at no charge to the appropriate law enforcement
15 agencies as requested and is subject to subpoena.

16 (3) A coroner's report is a document that includes the name of the decedent,
17 address, sex, date of birth, age, and race of the decedent, date and time of death,
18 place of death, date and time of autopsy, when applicable, and the cause and manner
19 of death, including any scientifically contributing factors. The coroner's report is a
20 public record, and the coroner or his designee shall release this report to the news
21 media, any other person, the Department of Children and Family Services, when
22 appropriate, or to the next of kin pursuant to R.S. 8:655(A). However, nothing in this
23 Paragraph shall authorize the release of the information set forth in this Paragraph
24 prior to notification of the next of kin of the deceased unless no next of kin can be
25 determined or, despite reasonable efforts by the coroner's office, no next of kin can
26 be located. The provisions of this Paragraph shall not require the release of
27 information in non-coroner cases, nor shall it prohibit the coroner from releasing
28 information pursuant to R.S. 13:5713 or Children's Code Article 609 to the
29 Department of Children and Family Services.

1 (4) A post-mortem forensic medical examination report, referred to as the
2 "autopsy report", may include an external examination only, an external examination
3 with toxicology, toxicology only, or an autopsy with supporting laboratory
4 evaluation. The post-mortem forensic medical examination report is a document that
5 is the work product of the coroner that contains the name of the decedent, address,
6 date of birth, age, sex, and race of the decedent, date and time of death, place of
7 death, date and time of autopsy, when applicable, name of the doctor performing the
8 autopsy and names of all persons present at the autopsy, and information regarding
9 the autopsy, including whether the autopsy was requested or performed by operation
10 of law, a listing of the physical findings of the autopsy, a summary in narrative form
11 of the medical findings and conclusions, toxicology, histology, and radiology
12 findings, when applicable, and the cause and manner of death. The post-mortem
13 forensic medical examination report is not a public document except as provided in
14 Paragraph (6) of this Subsection, or if ordered opened to the public by a court of
15 competent jurisdiction. However, it shall be made available at no charge to the
16 appropriate law enforcement agencies as requested and is subject to subpoena. The
17 coroner shall provide one copy of this document upon request by the next of kin
18 pursuant to R.S. 8:655(A) and one copy of this document upon request by the
19 decedent's physician. The provisions of this Paragraph shall not apply to the medical
20 records of the decedent or any records generated by any public entity other than the
21 coroner and those records shall be obtained from the entity generating them in
22 accordance with other applicable provisions of law.

23 (5) Nothing in this Subsection shall prohibit a coroner from providing the
24 documents described in this Subsection to the Louisiana Department of Health, office
25 of public health, for mortality surveillance and other purposes related to public health.
26 The office of public health shall treat any such documents as confidential, and such
27 documents shall not be subject to release pursuant to a public records request or
28 subpoena to the Louisiana Department of Health or the office of public health.

1 (6) Notwithstanding any other provision of this Section, any post-mortem
 2 forensic medical examination report used in the investigation of any criminal activity
 3 or death of any person in the custody or control of any law enforcement or
 4 corrections entity authorized by the constitution and laws of the United States or the
 5 state of Louisiana is a public record subject to the provisions of R.S. 44:3(A)(1).
 6 Section 3. R.S. 13:5713(K), (L), and (M) and 5714(C) are hereby repealed in their
 7 entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 160 Reengrossed

2018 Regular Session

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Abstract: Provides for the contents of certain death investigation documents and provides for whether each of those documents are considered to be public records.

Present law requires the coroner to provide a copy of a final report or autopsy report to the last attending physician or family physician, if requested in writing. Requires the autopsy report and related documents to be provided to family, next of kin, or law enforcement agencies at no charge when requested. Provides that additional copies shall be charged the same amount as is charged for death certificates. Classifies an autopsy report as a public record. Outlines the information each autopsy report shall include.

Present law provides that the Dept. of Children and Family Services may obtain certain information concerning the death of a minor from the coroner, at no charge.

Proposed law adds that the department may obtain information on other findings of abuse or neglect of a minor, and adds the requirement that the coroner notify the Dept. of Children and Family Services if he finds the cause of death of a minor child was due to abuse or neglect or finds evidence of abuse or neglect. The coroner is required to report this findings in a timely manner or immediately when requested to protect any other minor children.

Proposed law provides a detailed description of the information included in coroner death investigation documents:

- (1) Provides that a **fact of death letter**, which constitutes proof of death, is a public record.
- (2) Provides that a **death investigation report** is the work product of a coroner and is not a public record. However, it can be made available to law enforcement agencies at no charge upon request and is subject to subpoena.
- (3) Provides that a **coroners' report** is a public record and shall be released to the news media, the Dept. of Children and Family Services, when appropriate, the next of kin, or any other person. Provides that proposed law shall not require the release of certain information in non-coroner cases nor shall it prohibit the coroner from releasing information to the department pursuant to certain provisions of present law.

- (4) Provides that a **post-mortem forensic medical examination report**, known as an autopsy report, contains information including contact information of the decedent, the names of persons performing or present at the autopsy, a summary of the medical findings, and the cause and manner of death. This report is not a public record except when ordered released pursuant to a court order or when the report involves criminal activity or the death of a person in the custody of law enforcement or a corrections entity. Provides for this report to be made available to law enforcement at no charge, to the next of kin, and to the decedent's physician.

Proposed law authorizes the coroner to provide certain documents to the La. Dept. of Health, office of public health, for certain public health purposes. The office of public health shall treat these documents as confidential and the documents are not subject to be released pursuant to a public records request or subpoena to the La. Dept. of Health or office of public health.

(Amends R.S. 13:5713(C)(1)(c), (E)(1), (I), and (J) and R.S. 44:19(A)(3); Adds R.S. 44:19(E); Repeals R.S. 13:5713(K), (L), and (M) and 5714(C))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Provide that a fact of death letter is a public record.
2. Require the coroner to notify the Dept. of Children and Family Services if he finds the cause of death of a minor child was due to abuse or neglect or finds evidence of abuse or neglect.
3. Authorize the coroner to provide documents to the La. Dept. of Health, office of public health for certain purposes and requires the office of public health to treat these documents as confidential.
4. Provide that a post-mortem forensic medical examination report is not a public record except when opened by a court order or when it involves the investigation of criminal activity or the death of a person in the custody of law enforcement or a corrections entity, subject to provisions of present law.