

2018 Regular Session

HOUSE BILL NO. 160

BY REPRESENTATIVE FOIL AND SENATOR CLAITOR

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AN ACT

To amend and reenact R.S. 13:5713(C)(1)(c), (E)(1), (I), and (J) and R.S. 44:19(A)(3), to enact R.S. 28:53.4 and R.S. 44:19(E), and to repeal R.S. 13:5713(K), (L), and (M) and 5714(C), relative to coroners; to provide for requirements of certain death investigation documents; to provide relative to autopsy reports; to provide relative to notification requirements; to provide relative to public records; to provide relative to duties of coroners; to provide relative to certain orders for custody; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

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

§5713. Duties; autopsies; investigations

* * *

C.(1)

* * *

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

* * *

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

* * *

I. ~~The coroner shall furnish a copy of his final report or autopsy report, or both, upon written request, to the last attending physician of the deceased or to the~~

1 designated family physician of the deceased, provided that the family of the deceased
 2 has given written authorization to the coroner or to the requesting physician for the
 3 release of such report.

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

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

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

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

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

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

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

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

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

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

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

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

25 (2) The provisions of Paragraph (1) of this Subsection are not applicable to
26 any of the following:

27 (a) To acts or omissions which are not reasonably related to the legitimate
28 governmental objective for which the policymaking or discretionary power exists;

29 or.

1 (b) To acts or omissions which constitute criminal, fraudulent, malicious,
 2 intentional, willful, outrageous, reckless, or flagrant misconduct.

3 (3) The legislature finds and states that the purpose of this Subsection is not
 4 to reestablish any immunity based on the status of sovereignty but rather to clarify
 5 the substantive content and parameters of application of such legislatively created
 6 codal articles and laws and also to assist in the implementation of Article II of the
 7 Constitution of Louisiana.

8 ~~M.J.~~ Upon request, the Department of Children and Family Services shall
 9 be entitled to obtain at no charge the name, age, preliminary diagnosis, and manner
 10 of death of a deceased minor or any other findings of abuse or neglect of the minor
 11 from the office of the coroner conducting the autopsy while the final autopsy is
 12 pending. If the coroner finds that the cause of death of a minor child was due to
 13 abuse or neglect or finds evidence of any other abuse or neglect of the child, he shall
 14 notify the Department of Children and Family Services. The coroner shall provide
 15 the department with his findings in a timely manner, or immediately when requested
 16 to protect any other minor child.

17 Section 2. R.S. 28:53.4 is hereby enacted to read as follows:

18 §53.4. Order for custody; grounds; teleconference; Lafourche Parish

19 When a peace officer or other credible person executes a statement made to
 20 the best of his knowledge, belief, and personal observations from any law
 21 enforcement agency physically located in the city of Thibodaux or the town of
 22 Matthews pursuant to R.S. 28:53.2, the statement may be made by video conference
 23 between the peace officer or other credible person and the Lafourche Parish coroner's
 24 office. If the affiant is credible, qualified staff of the coroner's office shall complete
 25 an order for protective custody form based on information obtained in the video
 26 interview and immediately fax the form to the appropriate law enforcement agency.
 27 If the statement meets with the affiant's approval, the affiant shall sign the statement.
 28 The signature of the affiant shall be witnessed on the video and by a peace officer
 29 and immediately faxed to the coroner's office for the coroner's signature. Thereafter,
 30 the original signed form shall be sent to the Lafourche Parish coroner's office.

1 Section 3. R.S. 44:19(A)(3) is hereby amended and reenacted and R.S. 44:19(E) is
2 hereby enacted to read as follows:

3 §19. Records of a coroner; autopsy photographs, video, and other visual images

4 A.

5 * * *

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

9 * * *

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

11 (1) A fact of death letter is a written statement attesting to the fact of death,
12 which shall constitute proof of death for all purposes, including but not limited to
13 any claim under any policy of insurance issued on the life of the deceased individual.

14 The fact of death letter shall be a public record. The fact of death letter shall be
15 provided, upon request, to the spouse, parent, sibling, child, grandchild, niece,
16 nephew, aunt, or uncle of the decedent. If there is no spouse, parent, sibling, child,
17 grandchild, niece, nephew, aunt, or uncle of the decedent, then the coroner shall
18 provide one copy of the autopsy report, upon request, to the next of kin.

19 (2) A death investigation report is the work product of the coroner and is an
20 internal document that comprehensively records the findings and all known
21 information about the case created by both the investigative and administrative staff
22 of the coroner's office. The death investigation report is not a public document.
23 However, it shall be made available at no charge to the appropriate law enforcement
24 agencies as requested and is subject to subpoena. The death investigation report
25 shall also be made available, upon request, to the spouse, parent, sibling, child,
26 grandchild, niece, nephew, aunt, or uncle of the decedent. If there is no spouse,
27 parent, sibling, child, grandchild, niece, nephew, aunt, or uncle of the decedent, then
28 the coroner shall provide one copy of the autopsy report, upon request, to the next
29 of kin.

1 (3) A coroner's report is a document that includes the name of the decedent,
2 address, sex, date of birth, age, and race of the decedent, date and time of death,
3 place of death, date and time of autopsy, when applicable, and the cause and manner
4 of death, including any scientifically contributing factors. The coroner's report is a
5 public record, and the coroner or his designee shall release this report to the news
6 media, any other person, the Department of Children and Family Services, when
7 appropriate, the spouse, parent, sibling, child, grandchild, niece, nephew, aunt, or
8 uncle of the decedent, or to the person with the right to control and authorize the
9 interment of the decedent as provided in R.S. 8:655(A). However, nothing in this
10 Paragraph shall authorize the release of the information set forth in this Paragraph
11 prior to notification of the next of kin of the deceased unless no next of kin can be
12 determined or, despite reasonable efforts by the coroner's office, no next of kin can
13 be located. The provisions of this Paragraph shall not require the release of
14 information in non-coroner cases, nor shall it prohibit the coroner from releasing
15 information pursuant to R.S. 13:5713 or Children's Code Article 609 to the
16 Department of Children and Family Services.

17 (4) A post-mortem forensic medical examination report, referred to as the
18 "autopsy report", may include an external examination only, an external examination
19 with toxicology, toxicology only, or an autopsy with supporting laboratory
20 evaluation. The post-mortem forensic medical examination report is a document that
21 is the work product of the coroner that contains the name of the decedent, address,
22 date of birth, age, sex, and race of the decedent, date and time of death, place of
23 death, date and time of autopsy, when applicable, name of the doctor performing the
24 autopsy and names of all persons present at the autopsy, and information regarding
25 the autopsy, including whether the autopsy was requested or performed by operation
26 of law, a listing of the physical findings of the autopsy, a summary in narrative form
27 of the medical findings and conclusions, toxicology, histology, and radiology
28 findings, when applicable, and the cause and manner of death. The post-mortem
29 forensic medical examination report is not a public document except as provided in
30 Paragraph (6) of this Subsection, or if ordered opened to the public by a court of

1 competent jurisdiction. However, it shall be made available at no charge to the
 2 appropriate law enforcement agencies as requested and is subject to subpoena. The
 3 coroner shall provide one copy of this document upon request by the spouse, parent,
 4 sibling, child, grandchild, niece, nephew, aunt, or uncle of the decedent, or the next
 5 of kin pursuant to R.S. 8:655(A) and one copy of this document upon request by the
 6 decedent's physician. The provisions of this Paragraph shall not apply to the medical
 7 records of the decedent or any records generated by any public entity other than the
 8 coroner and those records shall be obtained from the entity generating them in
 9 accordance with other applicable provisions of law.

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

16 (6) Notwithstanding any other provision of this Section, any post-mortem
 17 forensic medical examination report used in the investigation of any criminal activity
 18 or death of any person in the custody or control of any law enforcement or
 19 corrections entity authorized by the constitution and laws of the United States or the
 20 state of Louisiana is a public record subject to the provisions of R.S. 44:3(A)(1).

21 Section 4. R.S. 13:5713(K), (L), and (M) and 5714(C) are hereby repealed in their
 entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____