

ORIGINAL HOUSE
BILL NO. 0042

ENGROSSED

ENROLLED ACT NO. 87, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2011 GENERAL SESSION

AN ACT relating to coroners; providing confidentiality for toxicology reports, photographs, video recordings or audio recordings of the scene of the death or made in the course of a postmortem examination or autopsy by a coroner; providing exceptions; providing penalties; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 7-4-105 is created to read:

7-4-105. Confidentiality of reports, photos and recordings; exceptions; penalties.

(a) After viewing the body and completing his investigation, the coroner shall draw up and sign his verdict on the death under consideration. The coroner shall also make a written docket giving an accurate description of the deceased person, his name if it can be determined, cause and manner of death, including relevant toxicological factors, age of decedent, date and time of death and the description of money and other property found with the body. The verdict and written docket are public records and may be viewed or obtained by request to the coroner, pursuant to W.S. 16-4-202.

(b) Except as provided in subsections (c), (d), (e), (g) and (o) of this section a toxicology report, a photograph, video recording or audio recording made at the scene of the death or made in the course of a postmortem examination or autopsy made or caused by a coroner shall be confidential and are not public records.

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(c) A surviving spouse, surviving parent, an adult child, personal representative, legal representative, or a legal guardian may:

(i) View and copy a toxicology report, a photograph or video recording made at the scene of the death or made in the course of a postmortem examination or autopsy made by or caused by a coroner; and

(ii) Listen to and copy an audio recording made at the scene of the death or made in the course of a postmortem examination or autopsy made by or caused by a coroner.

(d) Upon making a written request, a law enforcement entity of the state of Wyoming or United States government, a district attorney, the United States attorney for the district of Wyoming, a county, state or federal public health agency, a board licensing health care professionals under title 33 of the Wyoming statutes, the division responsible for administering the Wyoming Workers' Compensation Act, the state occupational epidemiologist, the department and the division responsible for administering the Wyoming Occupational Health and Safety Act, the office of the inspector of mines, insurance companies with legitimate interest in the death, all parties in civil litigation proceedings with legitimate interest in the death or a treating physician, while in performance of his official duty may:

(i) View and copy a toxicology report, photograph or video recording made at the scene of the death or made in the course of a postmortem examination or autopsy made by or caused by a coroner; and

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(ii) Listen to and copy an audio recording made at the scene of the death or made in the course of a postmortem examination or autopsy made by or caused by a coroner.

(e) Unless otherwise required in the performance of official duties, the identity of the deceased shall remain confidential in any record obtained under subsection (d) of this section.

(f) The coroner having custody of a toxicology report, a photograph, a video recording or an audio recording made at any scene of the death or made in the course of a postmortem examination or autopsy may allow the use for case consultation with an appropriate expert. The coroner may also allow the use of a toxicology report, a photograph, a video recording or an audio recording made at the scene of the death or made in the course of a postmortem examination or autopsy by legitimate scientific research organizations or for training purposes provided the identity of the decedent is not published or otherwise made public.

(g) A court upon showing of good cause, may issue an order authorizing a person to:

(i) View or copy a toxicology report, photograph or video recording made at the scene of the death or made in the course of a postmortem examination or autopsy made or caused by a coroner; and

(ii) Listen to and copy an audio recording made at the scene of the death or made in the course of a postmortem examination or autopsy made or caused by a coroner.

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(h) In determining good cause under subsection (g) of this section, the court shall consider:

(i) Whether the disclosure is necessary for the public evaluation of governmental performance;

(ii) The seriousness of the intrusion into the family's privacy;

(iii) Whether the disclosure of the toxicology report, photograph, video recording or audio recording is by the least intrusive means available; and

(iv) The availability of similar information in other public records regardless of form.

(j) A surviving spouse shall be given reasonable notice and a copy of any petition filed with the court under subsection (g) of this section and reasonable opportunity to be present and be heard on the matter. If there is no surviving spouse, the notice of the petition being filed and the opportunity to be heard shall be given to the deceased's parents and if the deceased has no living parent, the notice of the petition being filed and the opportunity to be heard shall be given to the adult children of the deceased or legal guardian, personal representative or legal representative of the children of the deceased.

(k) A coroner or coroner's designee that knowingly violates this section shall be guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than one thousand dollars (\$1,000.00), or both.

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(m) A person who knowingly or purposefully uses the information in a manner other than the specified purpose for which it was released or violates a court order issued under subsection (g) of this section is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than one thousand dollars (\$1,000.00), or both.

(n) In all cases, the viewing, copying, listening to, or other handling of a toxicology report, photograph, video recording, or audio recording made at a scene of the death or made in the course of a postmortem examination or autopsy made or caused by a coroner shall be under the direct supervision of the coroner, or the coroner's designee, who is the custodian of the record.

(o) In the event that the coroner, or the coroner's designee, determines that a person's death was caused by an infectious disease, biological toxin or any other cause which may constitute a public health emergency as defined in W.S. 35-4-115(a)(i), the coroner shall release to the state health officer or his designee all information and records required under W.S. 35-4-107. If the state health official or his designee determines upon an examination of the results of the autopsy and the toxicology report that a public health emergency may in fact exist, he shall release the appropriate information to the general public as provided by department of health rules and regulations.

Section 2. W.S. 16-4-203(d)(i) is amended to read:

16-4-203. Right of inspection; grounds for denial; access of news media; order permitting or restricting disclosure; exceptions.

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(d) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law:

(i) Medical, psychological and sociological data on individual persons, exclusive of coroners' autopsy reports verdicts and written dockets as provided in W.S. 7-4-105(a);

Section 3. This act is effective July 1, 2011.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk