

SENATE BILL REPORT

SSB 5256

As Amended by House, April 17, 2013

Title: An act relating to reports and records of autopsies and postmortems.

Brief Description: Concerning the confidentiality of certain autopsy and postmortem reports and records.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Padden and Baumgartner).

Brief History:

Committee Activity: Law & Justice: 2/01/13, 2/04/13, 2/08/13 [DPS].

Passed Senate: 3/08/13, 48-0.

Passed House: 4/17/13, 96-0.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5256 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Kline, Ranking Member; Darneille, Kohl-Welles, Pearson and Roach.

Staff: Aldo Melchiori (786-7439)

Background: A coroner or medical examiner may conduct an autopsy or postmortem in any case in which the coroner or medical examiner has jurisdiction. An autopsy or postmortem may be performed in any case where authorization has been given by a member of one of the following classes of persons in the following order of priority: (1) the surviving spouse or state registered domestic partner; (2) any child of the decedent who is 18 years of age or older; (3) one of the parents of the decedent; (4) any adult brother or sister of the decedent; or (5) a person who was guardian of the decedent at the time of death. Any party, by showing just cause, may petition the court to have an autopsy made and results made known to the party at the petitioner's own expense. In an industrial death where the cause of death is unknown, and where the Department of Labor and Industries (L&I) is concerned, L&I may request the coroner in writing to perform an autopsy to determine the cause of death.

Reports and records of autopsies or postmortems are confidential, except that the following persons may examine and obtain copies of any such report or record: the personal

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representative of the decedent, any family member, the attending physician or advanced registered nurse practitioner, the prosecuting attorney or law enforcement agencies having jurisdiction, public health officials, L&I in cases in which it has an interest, or the Secretary of the Department of Social and Health Services or the Secretary's designee in child welfare cases being reviewed. The coroner, the medical examiner, or the attending physician must, upon request, meet with the family of the decedent to discuss the findings of the autopsy or postmortem.

Summary of Substitute Bill: The coroner or medical examiner is not prohibited from discussing conclusions as to the cause, manner, or mechanism of death in cases where a law enforcement action was the proximate cause of death or where the death occurred in a penitentiary or institution.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on January 1, 2014.

Staff Summary of Public Testimony on Original Bill: PRO: The public has a valid interest in the outcomes of these investigations. This will provide more transparency for citizens.

CON: The exact language in the bill is problematic but can be improved to accomplish the policy goals. There is no need to display some of the grisly photographs contained in these materials.

Persons Testifying: PRO: Senator Padden, prime sponsor.

CON: James McMahan, Assn. of County Officials; Don Pierce, Assn. of Sheriffs and Police Chiefs.

House Amendment(s): A coroner, medical examiner, or designee is not prevented from publicly discussing findings as to any death within his or her jurisdiction that was proximately caused by a law enforcement or corrections officer (rather than conclusions regarding the cause, manner, and mechanism of death when the death was proximately caused by a law enforcement officer or occurred in a penitentiary or institution). However, public discussion of findings related to a death is restricted to formal court and inquest proceedings when there is a criminal investigation or litigation concerning the death that is in place at the time of the effective date of the act. Immunity from liability is provided for the release of information by a coroner, medical examiner, or designee, as long as he or she made a good faith attempt to comply with the law.