

# HOUSE BILL REPORT

## HB 1227

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**As Reported by House Committee On:**  
Civil Rights & Judiciary

**Title:** An act relating to providing coroners with additional subpoena duces tecum authority.

**Brief Description:** Providing coroners with additional subpoena duces tecum authority.

**Sponsors:** Representatives Walen, Klippert and Jinkins.

**Brief History:**

**Committee Activity:**

Civil Rights & Judiciary: 1/30/19, 2/8/19 [DPS].

**Brief Summary of Substitute Bill**

- Authorizes a coroner, in the course of an active or ongoing death investigation, to request that the superior court issue a subpoena.

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### HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Jinkins, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kilduff, Kirby, Klippert, Orwall, Shea, Valdez, Walen and Ybarra.

**Staff:** Cece Clynch (786-7195).

**Background:**

County Coroner.

The county coroner is an elected position whose primary function is death investigations. In a county with a population of 250,000 or more, the county legislative authority may, upon majority vote at an election called by the county legislative authority, adopt a system under which a medical examiner may be appointed to replace the office of the coroner.

The coroner is responsible for making determinations with respect to the cause, manner, and mechanism of death in those cases falling under his or her jurisdiction. The jurisdiction of

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the coroner extends to the bodies of all deceased persons who come to their death in a variety of circumstances set forth in statute, including:

- suddenly, when in apparent good health without medical attendance within the 36 hours preceding death;
- where circumstances indicate the death was caused by unnatural or unlawful means; or
- when death occurs under suspicious circumstances.

At his or her discretion, a coroner may hold an inquest if the coroner suspects that the death was unnatural, violent, resulted from unlawful means, resulted from suspicious circumstances, or was a suicide or homicide. When the coroner determines to hold an inquest, he or she notifies the superior court to provide persons to serve as a jury. At the coroner's request, the superior court must schedule a courtroom in which the inquest may be convened, as well as a bailiff, reporter, and any security deemed reasonably necessary by the coroner. Statute provides for situations in which the court cannot make a courtroom available.

Coroners are authorized to issue subpoenas for witnesses and must summon and examine as witnesses every person who, in the opinion of the coroner or the jury, has any knowledge of the facts. A witness served with a subpoena may be compelled to attend and testify, or be punished by the coroner for disobedience, in the same manner as a district judge may punish for disobedience of a subpoena.

#### Contempt of Court.

District court judges, like other judges, may impose sanctions for contempt of court.

Contempt of court is any intentional:

- disorderly conduct toward a judge that impairs the court's authority or interrupts judicial proceedings;
- disobedience of any lawful judgment, decree, order, or process of the court;
- refusal, without lawful authority, by a witness to appear, be sworn, or answer a question; or
- refusal, without lawful authority, to produce a court record, object, or other document.

Sanctions imposed for contempt of court may be either punitive or remedial. Punitive sanctions are imposed to punish a past contempt of court. A prosecuting or city attorney, on his or her own initiative or at the request of an aggrieved person or judge, must file an action to impose a punitive sanction. After a hearing, the court may impose a punitive sanction of a fine of up to \$5,000, imprisonment in jail for not more than 364 days, or both.

Remedial sanctions are imposed to coerce performance with a court order. A court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of an aggrieved person. Remedial sanctions include coercive imprisonment, a forfeiture not to exceed \$2,000 for each day the contempt continues, or other orders to ensure compliance.

In addition, a judge presiding in an action may immediately and summarily impose either a remedial or punitive sanction for a contempt of court committed in the judge's presence in order to preserve order in the court and preserve the dignity of the court. Punitive sanctions

that may be imposed under these circumstances include a fine of up to \$500, imprisonment in jail for up to 30 days, or both.

Court Rules.

Civil Rule 45 is the superior court rule governing subpoenas for appearance, production of documents or tangible things, and for inspection of premises. The rule prescribes the form to be used, the manner of service, provides protections for persons subject to subpoenas, and sets forth the duties of a person responding to a subpoena. Civil Rule 45 provides that failure, without adequate excuse, to obey a subpoena may be deemed a contempt of the court from which it was issued. The courts of limited jurisdiction have a similar rule, Civil Rules for Courts of Limited Jurisdiction 45.

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**Summary of Substitute Bill:**

In the course of an active or ongoing death investigation, a coroner may request that the superior court issue subpoenas for production of documents or other records and command each person to whom the subpoena is directed to produce and permit inspection and copying of documentary evidence or tangible things in the possession, custody, or control of that person at a specified time and place. A subpoena for production must substantively comply with the requirements of Civil Rule 45. A subpoena for production may be joined with a subpoena for testimony, or it may be issued separately.

**Substitute Bill Compared to Original Bill:**

A sentence is stricken which provided that failure to comply with a subpoena issued by the superior court may be punished as authorized in another statute which refers to the authority of a district court.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Currently coroners only have subpoena authority as part of a formal inquest. Coroners' investigations could be better, more cost-efficient, and more timely with this bill. Determining the cause of death is central to the mission of a coroner. Unnecessary delay is frustrating for the family of the deceased. Requiring an inquest is costly and can delay the determination. By way of example, a person was found dead in a motor vehicle. Earlier, the deceased had told others that he was going to go to the bank to deposit a check. As part of the investigation, the coroner wanted to find out from the bank whether the deceased had

gone to the bank, but the bank would not disclose that information. Access to mental health records can be key to determining whether an overdose was accidental or intentional. In the case of a situation in which someone on the train tracks is killed by a train, it can be important to view the railroad's videotapes. This bill will allow a coroner to apply to the court to issue a subpoena, and the court can issue the subpoena if the court determines it is justified. Determining the manner of death can be complicated. Videotapes and documents can assist in making this determination. To hold an inquest in every case is just not feasible.

(Opposed) None.

**Persons Testifying:** Representative Walen, prime sponsor; and Timothy Davidson and Warren McLeod, Washington Association of Coroners and Medical Examiners.

**Persons Signed In To Testify But Not Testifying:** None.