HLS 18RS-523 **ORIGINAL**

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	* * *

Page 1 of 6

CODING: Words in struck through type are deletions from existing law; words underscored are additions.

HLS 18RS-523 **ORIGINAL** HB NO. 160 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,

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

> writings, and documents of any descriptions in any way compiled, drafted, or

recorded in connection with an autopsy shall be provided by the coroner upon

payment of a reasonable copying charge pursuant to R.S. 40:1165.1. The autopsy

report shall be provided to relatives as provided in this Section at no charge.

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(3) Notwithstanding the provisions of this Subsection, records, writings, and documents of any description in any way compiled, drafted, or recorded in connection with an autopsy which are generated by any public entity other than the coroner shall be obtained from the public entity generating those records, writings, 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	(2) The provisions of Paragraph (1) of this Subsection are not applicable to
2	any of the following:
3	(a) To acts or omissions which are not reasonably related to the legitimate
4	governmental objective for which the policymaking or discretionary power exists;
5	or
6	(b) To acts or omissions which constitute criminal, fraudulent, malicious,
7	intentional, willful, outrageous, reckless, or flagrant misconduct.
8	(3) The legislature finds and states that the purpose of this Subsection is not
9	to reestablish any immunity based on the status of sovereignty but rather to clarify
10	the substantive content and parameters of application of such legislatively created
11	codal articles and laws and also to assist in the implementation of Article II of the
12	Constitution of Louisiana.
13	M.J. Upon request, the Department of Children and Family Services shall
14	be entitled to obtain at no charge the name, age, preliminary diagnosis, and manner
15	of death of a deceased minor from the office of the coroner conducting the autopsy
16	while the final autopsy is pending.
17	Section 2. R.S. 44:19(A)(3) is hereby amended and reenacted and R.S. 44:19(E) is
18	hereby enacted to read as follows:
19	§19. Records of a coroner; autopsy photographs, video, and other visual images
20	A.
21	* * *
22	(3) The provisions of Paragraph (1) of this Subsection shall not apply to a
23	death certificate, final report of a coroner, or autopsy report fact of death letter, or
24	coroner's report.
25	* * *
26	E. Coroner death investigation documents shall include the following:
27	(1) A fact of death letter is a written statement attesting to the fact of death,
28	which shall constitute proof of death for all purposes, including but not limited to
29	any claim under any policy of insurance issued on the life of the deceased individual.

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

(3) A coroner's report is a document that includes the name of the decedent, address, sex, date of birth, age, and race of the decedent, date and time of death, place of death, date and time of autopsy, when applicable, and the cause and manner of death. The coroner's report is a public record, and the coroner or his designee shall release this report to the news media, Department of Children and Family Services, when appropriate, or to the next of kin pursuant to R.S. 8:655(A). However, nothing in this Paragraph shall authorize the release of the information set forth in this Paragraph prior to notification of the next of kin of the deceased unless no next of kin can be determined or, despite reasonable efforts by the coroner's office, no next of kin can be located. The provisions of this Paragraph shall not require the release of information in non-coroner cases.

"autopsy report", may include an external examination only, an external examination with toxicology, toxicology only, or an autopsy with supporting laboratory evaluation. The post-mortem forensic medical examination report is a document that is the work product of the coroner that contains the name of the decedent, address, date of birth, age, sex, and race of the decedent, date and time of death, place of death, date and time of autopsy, when applicable, name of the doctor performing the autopsy and names of all persons present at the autopsy, and information regarding the autopsy, including whether the autopsy was requested or performed by operation of law, a listing of the physical findings of the autopsy, a summary in narrative form of the medical findings and conclusions, toxicology, histology, and radiology findings, when applicable, and the cause and manner of death. The post-mortem

1 forensic medical examination report is not a public document. However, it shall be 2 made available at no charge to the appropriate law enforcement agencies as 3 requested and is subject to subpoena. The coroner shall provide one copy of this 4 document upon request by the next of kin pursuant to R.S. 8:655(A) and one copy 5 of this document upon request by the decedent's physician. The provisions of this 6 Paragraph shall not apply to the medical records of the decedent or any records 7 generated by any public entity other than the coroner and those records shall be 8 obtained from the entity generating them in accordance with other applicable 9 provisions of law. 10 Section 3. R.S. 13:5713(K), (L), and (M) and 5714(C) are hereby repealed in their 11 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 Original

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.

<u>Present law</u> 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.

<u>Proposed law</u> provides a detailed description of the information included in coroner death investigation documents. Provides that the autopsy report 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. Additionally, a copy of the autopsy report can be provided to the next of kin and decedent's physician upon request.

<u>Proposed law</u> further provides that death investigation reports are not public documents, but can be made available to law enforcement at no charge. Provides that coroners' reports are public records and shall be released to the news media, the Dept. of Children and Family Services, when appropriate, or next of kin.

(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))