

# HOUSE BILL REPORT

## SSB 5256

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### As Reported by House Committee On: Judiciary

**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:**

Judiciary: 3/19/13, 4/2/13 [DPA].

#### **Brief Summary of Substitute Bill (As Amended by Committee)**

- Provides that coroners, medical examiners, and their designees are not prohibited from publicly discussing their findings as to any death within the jurisdiction of their office that was proximately caused by a law enforcement or corrections officer.
- Grants coroners, medical examiners, and their designees immunity from legal liability associated with the release of findings regarding a death, as long as they acted in good faith in attempting to comply with the law.
- Restricts public discussion of findings by a coroner, medical examiner, or his or her designee to formal court or inquest proceedings when a criminal investigation or litigation concerning the death has commenced prior to the effective date of the act.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass as amended. Signed by 12 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman, Jinkins, Kirby, Klippert, Nealey, Orwall, Roberts and Shea.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Omeara Harrington (786-7136).

**Background:**

The bodies of individuals who die suddenly, under unnatural or unlawful circumstances, or from violence, among other specified causes, are under the jurisdiction of the county coroner or medical examiner. Autopsies may be performed as required by the coroner or medical examiner, as authorized by family members, guardians, or agencies authorized to dispose of the decedent's remains, or upon court order.

Reports and records of autopsies and postmortems are confidential. Only specified persons and entities may examine the reports and records and obtain copies, including the personal representative of the decedent, the decedent's family, the attending physician or advanced registered nurse practitioner, the prosecuting attorney or law enforcement agencies having jurisdiction, public health officials, the Department of Labor and Industries in cases in which it has an interest, and the Department of Social and Health Services when performing a child fatality review. On request, the attending physician, the medical examiner, or the coroner must meet with the decedent's family members to discuss the findings of the autopsy or postmortem.

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**Summary of Amended Bill:**

Coroners, medical examiners, and their designees are not prohibited from publicly discussing their findings as to any death subject to the jurisdiction of their office that was proximately caused by a law enforcement or corrections officer. 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 has commenced prior to the effective date of the act.

Coroners, medical examiners, and their designees are immune from liability for loss or damage based on the release of any information related to findings regarding a death, when the coroner, medical examiner, or designee acted in good faith in attempting to comply with the law.

**Amended Bill Compared to Substitute Bill:**

Language stating that a coroner, medical examiner, or his or her designee is not prohibited from discussing his or her conclusions as to 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, is removed.

Instead, a coroner, medical examiner, or designee is not prohibited from publicly discussing his or her findings as to any death within his or her jurisdiction that was proximately caused by a law enforcement or corrections officer. However, public discussion of findings related to a death is limited 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.

Additionally, coroners, medical examiners, and their designees are granted immunity from liability associated with the release of this information as long as a good faith attempt was made to comply with the applicable law.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Amended Bill:** The bill takes effect on January 1, 2014.

**Staff Summary of Public Testimony:**

(In support) This language was developed in consultation with stakeholders. Coroners and medical examiners should have the discretion to discuss their findings and conclusions of an autopsy or postmortem with law enforcement, the public, and the press. It is particularly important to allow these discussions when the fatality is law-enforcement related. This change would benefit citizens and reduce speculation by the media. Some counties currently use the inquest system, which is helpful in informing prosecutors' charging decisions. This proposal is limited, and would only authorize discussion of findings and not allow disclosure of documents or photos. Many coroners and medical examiners feel that they already have the ability to engage in these discussions, but clarification would be helpful.

Some amendatory language would be beneficial. The current bill is too restrictive in that it only addresses cases related to law enforcement and deaths that occur in custody. This could be unintentionally interpreted as only allowing discussion in these limited cases. Coroners and medical examiners should be able to discuss their conclusions in any case over which they have jurisdiction.

(Opposed) None.

**Persons Testifying:** Senator Padden, prime sponsor; James McMahan, Washington Association of County Officials; Mike Burgess, Spokane County; Don Pierce, Washington Association of Sheriffs and Police Chiefs; and Rowland Thompson, Allied Daily Newspaper.

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