

Amendment No. _____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

Signature of Sponsor

AMEND Senate Bill No. 2572

House Bill No. 2360*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 38-7-110, is amended by deleting the section and substituting instead the following:

(a) The records of the division of post mortem examination or the county medical examiner, or transcripts of the records certified to by the chief medical examiner or the deputy medical examiner or the duly appointed representative of the chief medical examiner, and the reports of the toxicology laboratory examinations performed by the testing laboratory or transcripts of the reports certified to by the director of the testing laboratory or the director's duly appointed representative, shall be received as competent evidence in any court of this state of the facts and matters contained in the records or reports.

(b) The records referred to in this section shall be limited to the records of the results of investigation, of post-mortem examinations, of the findings of autopsies and toxicological laboratory examinations, including certified reports of the toxicological laboratory examinations performed by the testing laboratory, and shall not include statements made by witnesses or other persons; provided, however, that persons who prepare reports or records given in evidence pursuant to this section shall be subpoenaed as witnesses, in either civil or criminal cases, upon demand by either party to the cause, or, when unable to appear as witnesses, shall submit a deposition upon demand by either party to the cause.



090596749



014159

(c) Subject to subsections (d), (e), and (f), the reports of and documents produced or used by the county medical examiners shall be confidential and privileged documents and shall not be public records. Reports of the medical examiner include final autopsy reports, reports of investigation, and toxicology reports. Documents produced or used by the medical examiner include medical records of deceased persons, law enforcement investigative reports, and photographs, video, and other images of deceased persons.

(d) Release of reports of the medical examiner are authorized as follows:

(1) To the district attorney general for use in pending or contemplated prosecution;

(2) To law enforcement agencies for conducting a criminal investigation or to alert law enforcement of possible criminal conduct;

(3) To the next of kin or legal representative of the deceased based on order of priority as provided in § 38-7-119(c)(1)(A);

(4) To the person in possession of a legal and properly documented records release request from the legal next of kin or legal representative of the deceased;

(5) To a court pursuant to a subpoena for documents and objects under Tennessee Rule of Criminal Procedure 17(d);

(6) To the department of health for the purposes of maintaining records of all deaths investigated by county medical examiners and conducting a public health investigation for the outbreak of disease; and

(7) To an organ and tissue procurement agency for the purposes of procuring that decedent's organs or tissues.

(e) Release of photographs, video, and other images of deceased persons produced by the medical examiner are authorized to the following:

(1) To the district attorney general for use in pending or contemplated prosecution;

(2) To law enforcement agencies for conducting a criminal investigation or to alert law enforcement of possible criminal conduct; and

(3) To a court pursuant to a subpoena for documents and objects under Tennessee Rule of Criminal Procedure 17(d).

(f)

(1) Upon written petition by the district attorney general, supported by affidavit or testimony under oath from a law enforcement officer that the release of portions of a report of a county medical examiner, toxicological report, or autopsy report may seriously impede or impair the investigation of a homicide or felony, a court of record may order that those portions shall not be subject to disclosure and shall remain confidential. The court shall cause a record to be kept of any testimony given in support of the petition, which record and all related documentation shall be sealed by the court and open to inspection only by a court reviewing the proceedings.

(2) The court shall order to be held as confidential only those portions of the records the release of which would impede or impair any such investigation. The court may order disclosure of any record that has previously been protected from disclosure, upon written application of the district attorney general; provided, that the court shall order that the records shall be open to disclosure upon the indictment and arrest of all suspects in the underlying homicide or felony, or upon the closure of the investigation into the underlying homicide or felony. Upon the closure of the investigation, the law enforcement agency shall immediately inform the district attorney general, who shall, in turn, promptly notify the court of the altered status of the investigation.

(3) Any person aggrieved by an order directing that any portion of a report of a county medical examiner, toxicological report, or autopsy report shall remain confidential and not open for disclosure may petition the court having entered the order to set aside or modify the order. A copy of the petition shall be served on the district attorney general. The court may order disclosure of the records previously sealed, upon the showing of a compelling reason for the disclosure. In any order granting a petitioner access to the records, the court may make provisions as it deems necessary in the order limiting further disclosure of the records.

(4) Nothing in this subsection (f) limits the right of any defendant in any criminal proceeding to obtain discovery of any report of a county medical examiner, toxicological report, or autopsy report as provided in Rule 16 of the Tennessee Rules of Criminal Procedure.

(g)

(1) If it is necessary to prepare a post-mortem examination report, then an authorized post-mortem official may obtain, in the manner prescribed in § 38-7-117, a needed medical, mental health, or hospital record pertaining to a case under investigation pursuant to § 38-7-106.

(2) As used in this subsection (g), "authorized post-mortem official" means:

- (A) The state chief medical examiner;
- (B) The deputy state chief medical examiner;
- (C) A county medical examiner;
- (D) A medical investigator; or
- (E) A deputy or assistant medical examiner or forensic pathologist under the control or direction of the state chief medical examiner or the county medical examiner.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it.