

WEST VIRGINIA CODE: §61-12-10

§61-12-10. When autopsies made and by whom performed; records of date investigated; copies of records and information; reporting requirements.

(a) If in the opinion of the chief medical examiner, or of the county medical examiner of the county in which the death in question occurred, it is advisable and in the public interest that an autopsy be made, or if an autopsy is requested by either the prosecuting attorney or the judge of the circuit court or other court of record having criminal jurisdiction in that county, an autopsy shall be conducted by the chief medical examiner or his or her designee, by a member of his or her staff, or by a competent pathologist designated and employed by the chief medical examiner under the provisions of this article. For this purpose, the chief medical examiner may employ any county medical examiner who is a pathologist who holds board certification or board eligibility in forensic pathology or has completed an American Board of Pathology fellowship in forensic pathology to make the autopsies, and the fees to be paid for autopsies under this section shall be in addition to the fee provided for investigations pursuant to §61-12-8 of this code. A full record and report of the findings developed by the autopsy shall be filed with the office of the chief medical examiner by the person making the autopsy.

(b) Within the discretion of the chief medical examiner, or of the person making the autopsy, or if requested by the prosecuting attorney of the county, or of the county where any injury contributing to or causing the death was sustained, a copy of the report of the autopsy shall be furnished to the prosecuting attorney.

(c) The Office of the Chief Medical Examiner shall keep full, complete and properly indexed records of all deaths investigated, containing all relevant information concerning the death and the autopsy report if an autopsy report is made. Any prosecuting attorney or law-enforcement officer may secure copies of these records or information necessary for the performance of his or her official duties.

(d) Copies of these records or information shall be furnished, upon request, to any court of law, or to the parties therein to whom the cause of death is a material issue, except where the court determines that interests in a civil matter conflict with the interests in a criminal proceeding, in which case the interests in the criminal proceeding shall take precedence. The Office of Chief Medical Examiner shall be reimbursed a reasonable rate by the requesting party for costs incurred in the production of records under this subsection, and subsection (c), (f) and (g) of this section.

(e) The chief medical examiner may release investigation records and autopsy reports to the multidisciplinary team authorized by §49-4-402 of this code and as authorized in subsection (j) of this section. The chief medical examiner may release records and information to other state agencies when considered to be in the public interest.

(f) The chief medical examiner may release a copy of the autopsy and toxicology reports upon the request from a designated representative of a hospital as defined in §16-2D-2 of this code, to said facility who has reported a death under the provisions of §61-12-8 of this code for purposes of quality review and medical record completion.

(g) The chief medical examiner may release a copy of the autopsy and toxicology reports upon the request of an attending physician as defined in §16-30C-3 of this code, to said physician whose patient has died for purposes of quality review and medical record completion.

(h) Any person performing an autopsy under this section may keep and retain, for and on behalf of the chief medical examiner, any tissue from the body upon which the autopsy was performed which may be necessary for further study or consideration.

(i) In cases of the death of any infant, where sudden infant death syndrome is the suspected cause of death and the chief medical examiner or the medical examiner of the county in which the death in question occurred considers it advisable to perform an autopsy, it is the duty of the chief medical examiner or the medical examiner of the county in which the death occurred to notify the sudden infant death syndrome program within the Division of Maternal and Child Health and to inform the program of all information to be given to the infant's parents.

(j) If the chief medical examiner determines that a drug overdose is the cause of death of a person, the chief medical examiner shall provide notice of the death to the West Virginia Controlled Substances Monitoring Program Database Review Committee established pursuant to §60A-9-5(b) and shall include in the notice any information relating to the cause of the fatal overdose.