

CHAPTER NO. 766

SENATE BILL NO. 2410

By Crutchfield

Substituted for: House Bill No. 2672

By Brenda Turner

AN ACT To amend Tennessee Code Annotated, Section 38-7-110, relative to post-mortem examination reports.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

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

(c) Subject to the provisions of subsection (d), the reports of the county medical examiners, toxicological reports and autopsy reports shall be public documents. The department is authorized to charge a fee of five dollars (\$5.00) for a certified copy of each county medical examiner's report and each toxicological report, and a fee of fifteen dollars (\$15.00) for a certified copy of each autopsy report.

SECTION 2. Tennessee Code Annotated, Section 38-7-110, is amended by adding the following new language, to be designated as subsection (d):

(d)(1) Upon written petition by the district attorney general supported by affidavit and/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 such portions shall not be subject to disclosure as a public document and shall remain confidential. The court shall cause a record to be kept of any testimony given in support of such a 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 such records the release of which would impede or impair any such investigation. The court may order public disclosure of any such record that has previously been protected from disclosure upon written application of the district attorney general, provided that the court shall order that such records shall be open to public inspection 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 any such 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 public inspection may petition the court having

entered such order to set aside or modify such order. A copy of any such petition shall be served on the district attorney general. The court may order disclosure of such records previously sealed upon the showing of a compelling reason for the disclosure. In any order granting a petitioner access to any such records, the court may make provisions as it deems necessary in the order limiting further disclosure of such records.

(4) Nothing in this subsection shall be construed as limiting 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.

SECTION 3. Tennessee Code Annotated, Section 38-7-110, is further amended by adding the following new language, to be designated as subsection (e):

(e) If it is necessary to prepare a post-mortem examination report, then notwithstanding the provisions of Tennessee Code Annotated, Section 38-7-117, the state medical examiner, the deputies and assistants of the state medical examiner, each county medical examiner and their deputies assistants and pathologists may subpoena a needed medical, mental health or hospital record pertaining to a case under investigation under Tennessee Code Annotated, Section 38-7-106.

SECTION 4. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 11, 2000


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 22nd day of May 2000