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HOUSE BILL 1369

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State of Washington

66th Legislature

2019 Regular Session

By Representatives Macri, Harris, Robinson, Graham, Riccelli, Stonier, and Jenkins; by request of Department of Health

1 AN ACT Relating to maternal mortality reviews; amending RCW  
2 70.54.450, 70.02.230, and 68.50.104; and repealing 2016 c 238 s 4  
3 (uncodified).

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.54.450 and 2016 c 238 s 1 are each amended to  
6 read as follows:

7 (1) For the purposes of this section, "maternal mortality" or  
8 "maternal death" means a death of a woman while pregnant or within  
9 one year of (~~delivering or following~~) the end of a pregnancy,  
10 (~~whether or not the woman's death is related to or aggravated by the~~  
11 ~~pregnancy~~) from any cause.

12 (2) A maternal mortality review panel is established to conduct  
13 comprehensive, multidisciplinary reviews of maternal deaths in  
14 Washington to identify factors associated with the deaths and make  
15 recommendations for system changes to improve health care services  
16 for women in this state. The members of the panel must be appointed  
17 by the secretary of the department of health, must include at least  
18 one tribal representative, must serve without compensation, and may  
19 include at the discretion of the department:

20 (a) (~~An obstetrician;~~

21 ~~(b) A physician specializing in maternal fetal medicine;~~

1 ~~(c) A neonatologist;~~

2 ~~(d) A midwife with licensure in the state of Washington;))~~

3 Women's medical, nursing, and service providers;

4 (b) Perinatal medical, nursing, and service providers;

5 (c) Obstetric medical, nursing, and service providers;

6 (d) Newborn or pediatric medical, nursing, and service providers;

7 (e) Birthing hospital or licensed birth center representative;

8 (f) Coroners, medical examiners, or pathologists;

9 (g) Behavioral health and service providers;

10 (h) State agency representatives;

11 (i) Community representatives;

12 (j) A representative from the department of health who works in  
13 the field of maternal and child health; and

14 ~~((f))~~ (k) A department of health epidemiologist with experience  
15 analyzing perinatal data(

16 ~~(g) A pathologist; and~~

17 ~~(h) A representative of the community mental health centers)).~~

18 (3) The maternal mortality review panel must conduct  
19 comprehensive, multidisciplinary reviews of maternal mortality in  
20 Washington. The panel may not call witnesses or take testimony from  
21 any individual involved in the investigation of a maternal death or  
22 enforce any public health standard or criminal law or otherwise  
23 participate in any legal proceeding relating to a maternal death.

24 (4) (a) Information, documents, proceedings, records, and opinions  
25 created, collected, or maintained by the maternity mortality review  
26 panel or the department of health in support of the maternal  
27 mortality review panel are confidential and are not subject to public  
28 inspection or copying under chapter 42.56 RCW and are not subject to  
29 discovery or introduction into evidence in any civil or criminal  
30 action.

31 (b) Any person who was in attendance at a meeting of the maternal  
32 mortality review panel or who participated in the creation,  
33 collection, or maintenance of the panel's information, documents,  
34 proceedings, records, or opinions may not be permitted or required to  
35 testify in any civil or criminal action as to the content of such  
36 proceedings, or the panel's information, documents, records, or  
37 opinions. This subsection does not prevent a member of the panel from  
38 testifying in a civil or criminal action concerning facts which form  
39 the basis for the panel's proceedings of which the panel member had

1 personal knowledge acquired independently of the panel or which is  
2 public information.

3 (c) Any person who, in substantial good faith, participates as a  
4 member of the maternal mortality review panel or provides information  
5 to further the purposes of the maternal mortality review panel may  
6 not be subject to an action for civil damages or other relief as a  
7 result of the activity or its consequences.

8 (d) All meetings, proceedings, and deliberations of the maternal  
9 mortality review panel may, at the discretion of the maternal  
10 mortality review panel, be confidential and may be conducted in  
11 executive session.

12 (e) The maternal mortality review panel and ~~((the secretary of))~~  
13 the department of health may retain identifiable information  
14 regarding facilities where maternal deaths occur, or facilities from  
15 which ~~((the patient was transferred, occur))~~ a patient whose record  
16 is or will be examined by the maternal mortality review panel was  
17 transferred, and geographic information on each case ~~((solely))~~ for  
18 the purposes of ~~((trending and analysis over time))~~ determining  
19 trends, performing analysis over time, and for quality improvement  
20 efforts. All individually identifiable information must be removed  
21 before any case review by the panel.

22 (5) The department of health shall review department available  
23 data to identify maternal deaths. To aid in determining whether a  
24 maternal death was related to or aggravated by the pregnancy, ~~((and))~~  
25 whether it was preventable, and to coordinate quality improvement  
26 efforts, the department of health has the authority to:

27 (a) Request and receive data for specific maternal deaths  
28 including, but not limited to, all medical records, autopsy reports,  
29 medical examiner reports, coroner reports, and social service  
30 records; and

31 (b) Request and receive data as described in (a) of this  
32 subsection from health care providers, health care facilities,  
33 clinics, laboratories, medical examiners, coroners, professions and  
34 facilities licensed by the department of health, local health  
35 jurisdictions, the health care authority and its licensees and  
36 providers, ~~((and))~~ the department of social and health services and  
37 its licensees and providers, and the department of children, youth,  
38 and families and its licensees and providers.

39 (6) Upon request by the department of health, health care  
40 providers, health care facilities, clinics, laboratories, medical

1 examiners, coroners, professions and facilities licensed by the  
2 department of health, local health jurisdictions, the health care  
3 authority and its licensees and providers, ~~((and))~~ the department of  
4 social and health services and its licensees and providers, and the  
5 department of children, youth, and families and its licensees and  
6 providers must provide all medical records, autopsy reports, medical  
7 examiner reports, coroner reports, social services records,  
8 information and records related to sexually transmitted diseases, and  
9 other data requested for specific maternal deaths as provided for in  
10 subsection (5) of this section to the department.

11 (7) By ~~((July 1, 2017))~~ October 1, 2019, and ~~((biennially))~~ every  
12 three years thereafter, the maternal mortality review panel must  
13 submit a report to the secretary of the department of health and the  
14 health care committees of the senate and house of representatives.  
15 The report must protect the confidentiality of all decedents and  
16 other participants involved in any incident. The report must be  
17 distributed to relevant stakeholder groups for performance  
18 improvement. Interim results may be shared ~~((at))~~ with the Washington  
19 state hospital association coordinated quality improvement program.  
20 The report must include the following:

21 (a) A description of the maternal deaths reviewed by the panel  
22 ~~((during the preceding twenty-four months))~~, including statistics and  
23 causes of maternal deaths presented in the aggregate, but the report  
24 must not disclose any identifying information of patients, decedents,  
25 providers, and organizations involved; and

26 (b) Evidence-based system changes and possible legislation to  
27 improve maternal outcomes and reduce preventable maternal deaths in  
28 Washington.

29 (8) Upon the approval of the department of health and with a  
30 signed written data-sharing agreement, the department of health may  
31 release either data or findings with indirect identifiers, or both,  
32 to the centers for disease control and prevention, regional maternal  
33 mortality review efforts, local health jurisdictions of Washington  
34 state, or other entities at the discretion of the department.

35 (a) A written data-sharing agreement under this section must, at  
36 a minimum:

37 (i) Include a description of the proposed purpose of the request,  
38 the scientific justification for the proposal, the type of data  
39 needed, and the purpose for which the data will be used;

1 (ii) Include the methods to be used to protect the  
2 confidentiality and security of the data;

3 (iii) Prohibit redisclosure of any identifiers without express  
4 written permission from the department of health;

5 (iv) Prohibit the recipient of the data from attempting to  
6 determine the identity of persons or parties whose information is  
7 included in the data set or use the data in any manner that  
8 identifies individuals or their family members, or health care  
9 providers and facilities;

10 (v) State that ownership of data provided under this section  
11 remains with the department of health, and is not transferred to  
12 those authorized to receive and use the data under the agreement; and

13 (vi) Require the recipient of the data to include appropriate  
14 citations when the data is used in research reports or publications  
15 of research findings.

16 (b) The department of health may deny a request to share either  
17 data or findings, or both, that does not meet the requirements.

18 (c) For the purposes of this subsection:

19 (i) "Direct identifier" means a single data element that  
20 identifies an individual person.

21 (ii) "Indirect identifier" means a single data element that on  
22 its own might not identify an individual person, but when combined  
23 with other indirect identifiers is likely to identify an individual  
24 person.

25 (9) For the purposes of the maternal mortality review, hospitals  
26 and licensed birth centers must make a reasonable and good faith  
27 effort to report all deaths that occur during pregnancy or within  
28 forty-two days of the end of pregnancy to the local coroner or  
29 medical examiner:

30 (a) These deaths must be reported within thirty-six hours after  
31 death.

32 (b) Local coroners or medical examiners to whom the death was  
33 reported must conduct a death investigation, with autopsy strongly  
34 recommended.

35 (c) Autopsies must follow the guidelines for performance of an  
36 autopsy published by the department of health.

37 (d) Reimbursement of these autopsies must be at one hundred  
38 percent to the counties for autopsy services.

1       **Sec. 2.** RCW 70.02.230 and 2018 c 201 s 8002 are each amended to  
2 read as follows:

3       (1) Except as provided in this section, RCW 70.02.050, 71.05.445,  
4 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or  
5 pursuant to a valid authorization under RCW 70.02.030, the fact of  
6 admission to a provider for mental health services and all  
7 information and records compiled, obtained, or maintained in the  
8 course of providing mental health services to either voluntary or  
9 involuntary recipients of services at public or private agencies must  
10 be confidential.

11       (2) Information and records related to mental health services,  
12 other than those obtained through treatment under chapter 71.34 RCW,  
13 may be disclosed only:

14       (a) In communications between qualified professional persons to  
15 meet the requirements of chapter 71.05 RCW, in the provision of  
16 services or appropriate referrals, or in the course of guardianship  
17 proceedings if provided to a professional person:

18       (i) Employed by the facility;

19       (ii) Who has medical responsibility for the patient's care;

20       (iii) Who is a designated crisis responder;

21       (iv) Who is providing services under chapter 71.24 RCW;

22       (v) Who is employed by a state or local correctional facility  
23 where the person is confined or supervised; or

24       (vi) Who is providing evaluation, treatment, or follow-up  
25 services under chapter 10.77 RCW;

26       (b) When the communications regard the special needs of a patient  
27 and the necessary circumstances giving rise to such needs and the  
28 disclosure is made by a facility providing services to the operator  
29 of a facility in which the patient resides or will reside;

30       (c) (i) When the person receiving services, or his or her  
31 guardian, designates persons to whom information or records may be  
32 released, or if the person is a minor, when his or her parents make  
33 such a designation;

34       (ii) A public or private agency shall release to a person's next  
35 of kin, attorney, personal representative, guardian, or conservator,  
36 if any:

37       (A) The information that the person is presently a patient in the  
38 facility or that the person is seriously physically ill;

39       (B) A statement evaluating the mental and physical condition of  
40 the patient, and a statement of the probable duration of the

1 patient's confinement, if such information is requested by the next  
2 of kin, attorney, personal representative, guardian, or conservator;  
3 and

4 (iii) Other information requested by the next of kin or attorney  
5 as may be necessary to decide whether or not proceedings should be  
6 instituted to appoint a guardian or conservator;

7 (d)(i) To the courts as necessary to the administration of  
8 chapter 71.05 RCW or to a court ordering an evaluation or treatment  
9 under chapter 10.77 RCW solely for the purpose of preventing the  
10 entry of any evaluation or treatment order that is inconsistent with  
11 any order entered under chapter 71.05 RCW.

12 (ii) To a court or its designee in which a motion under chapter  
13 10.77 RCW has been made for involuntary medication of a defendant for  
14 the purpose of competency restoration.

15 (iii) Disclosure under this subsection is mandatory for the  
16 purpose of the federal health insurance portability and  
17 accountability act;

18 (e)(i) When a mental health professional or designated crisis  
19 responder is requested by a representative of a law enforcement or  
20 corrections agency, including a police officer, sheriff, community  
21 corrections officer, a municipal attorney, or prosecuting attorney to  
22 undertake an investigation or provide treatment under RCW 71.05.150,  
23 10.31.110, or 71.05.153, the mental health professional or designated  
24 crisis responder shall, if requested to do so, advise the  
25 representative in writing of the results of the investigation  
26 including a statement of reasons for the decision to detain or  
27 release the person investigated. The written report must be submitted  
28 within seventy-two hours of the completion of the investigation or  
29 the request from the law enforcement or corrections representative,  
30 whichever occurs later.

31 (ii) Disclosure under this subsection is mandatory for the  
32 purposes of the federal health insurance portability and  
33 accountability act;

34 (f) To the attorney of the detained person;

35 (g) To the prosecuting attorney as necessary to carry out the  
36 responsibilities of the office under RCW 71.05.330(2),  
37 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided  
38 access to records regarding the committed person's treatment and  
39 prognosis, medication, behavior problems, and other records relevant  
40 to the issue of whether treatment less restrictive than inpatient

1 treatment is in the best interest of the committed person or others.  
2 Information must be disclosed only after giving notice to the  
3 committed person and the person's counsel;

4 (h)(i) To appropriate law enforcement agencies and to a person,  
5 when the identity of the person is known to the public or private  
6 agency, whose health and safety has been threatened, or who is known  
7 to have been repeatedly harassed, by the patient. The person may  
8 designate a representative to receive the disclosure. The disclosure  
9 must be made by the professional person in charge of the public or  
10 private agency or his or her designee and must include the dates of  
11 commitment, admission, discharge, or release, authorized or  
12 unauthorized absence from the agency's facility, and only any other  
13 information that is pertinent to the threat or harassment. The agency  
14 or its employees are not civilly liable for the decision to disclose  
15 or not, so long as the decision was reached in good faith and without  
16 gross negligence.

17 (ii) Disclosure under this subsection is mandatory for the  
18 purposes of the federal health insurance portability and  
19 accountability act;

20 (i)(i) To appropriate corrections and law enforcement agencies  
21 all necessary and relevant information in the event of a crisis or  
22 emergent situation that poses a significant and imminent risk to the  
23 public. The mental health service agency or its employees are not  
24 civilly liable for the decision to disclose or not so long as the  
25 decision was reached in good faith and without gross negligence.

26 (ii) Disclosure under this subsection is mandatory for the  
27 purposes of the health insurance portability and accountability act;

28 (j) To the persons designated in RCW 71.05.425 for the purposes  
29 described in those sections;

30 (k) Upon the death of a person. The person's next of kin,  
31 personal representative, guardian, or conservator, if any, must be  
32 notified. Next of kin who are of legal age and competent must be  
33 notified under this section in the following order: Spouse, parents,  
34 children, brothers and sisters, and other relatives according to the  
35 degree of relation. Access to all records and information compiled,  
36 obtained, or maintained in the course of providing services to a  
37 deceased patient are governed by RCW 70.02.140;

38 (l) To mark headstones or otherwise memorialize patients interred  
39 at state hospital cemeteries. The department of social and health  
40 services shall make available the name, date of birth, and date of



1 death of patients buried in state hospital cemeteries fifty years  
2 after the death of a patient;

3 (m) To law enforcement officers and to prosecuting attorneys as  
4 are necessary to enforce RCW 9.41.040(2)(a) (~~((iii))~~) (iv). The extent  
5 of information that may be released is limited as follows:

6 (i) Only the fact, place, and date of involuntary commitment, an  
7 official copy of any order or orders of commitment, and an official  
8 copy of any written or oral notice of ineligibility to possess a  
9 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
10 must be disclosed upon request;

11 (ii) The law enforcement and prosecuting attorneys may only  
12 release the information obtained to the person's attorney as required  
13 by court rule and to a jury or judge, if a jury is waived, that  
14 presides over any trial at which the person is charged with violating  
15 RCW 9.41.040(2)(a) (~~((iii))~~) (iv);

16 (iii) Disclosure under this subsection is mandatory for the  
17 purposes of the federal health insurance portability and  
18 accountability act;

19 (n) When a patient would otherwise be subject to the provisions  
20 of this section and disclosure is necessary for the protection of the  
21 patient or others due to his or her unauthorized disappearance from  
22 the facility, and his or her whereabouts is unknown, notice of the  
23 disappearance, along with relevant information, may be made to  
24 relatives, the department of corrections when the person is under the  
25 supervision of the department, and governmental law enforcement  
26 agencies designated by the physician or psychiatric advanced  
27 registered nurse practitioner in charge of the patient or the  
28 professional person in charge of the facility, or his or her  
29 professional designee;

30 (o) Pursuant to lawful order of a court;

31 (p) To qualified staff members of the department, to the  
32 authority, to the director of behavioral health organizations, to  
33 resource management services responsible for serving a patient, or to  
34 service providers designated by resource management services as  
35 necessary to determine the progress and adequacy of treatment and to  
36 determine whether the person should be transferred to a less  
37 restrictive or more appropriate treatment modality or facility;

38 (q) Within the mental health service agency where the patient is  
39 receiving treatment, confidential information may be disclosed to  
40 persons employed, serving in bona fide training programs, or

1 participating in supervised volunteer programs, at the facility when  
2 it is necessary to perform their duties;

3 (r) Within the department and the authority as necessary to  
4 coordinate treatment for mental illness, developmental disabilities,  
5 alcoholism, or substance use disorder of persons who are under the  
6 supervision of the department;

7 (s) Between the department of social and health services, the  
8 department of children, youth, and families, and the health care  
9 authority as necessary to coordinate treatment for mental illness,  
10 developmental disabilities, alcoholism, or drug abuse of persons who  
11 are under the supervision of the department of social and health  
12 services or the department of children, youth, and families;

13 (t) To a licensed physician or psychiatric advanced registered  
14 nurse practitioner who has determined that the life or health of the  
15 person is in danger and that treatment without the information and  
16 records related to mental health services could be injurious to the  
17 patient's health. Disclosure must be limited to the portions of the  
18 records necessary to meet the medical emergency;

19 (u)(i) Consistent with the requirements of the federal health  
20 insurance portability and accountability act, to:

21 (A) A health care provider who is providing care to a patient, or  
22 to whom a patient has been referred for evaluation or treatment; or

23 (B) Any other person who is working in a care coordinator role  
24 for a health care facility or health care provider or is under an  
25 agreement pursuant to the federal health insurance portability and  
26 accountability act with a health care facility or a health care  
27 provider and requires the information and records to assure  
28 coordinated care and treatment of that patient.

29 (ii) A person authorized to use or disclose information and  
30 records related to mental health services under this subsection  
31 (2)(u) must take appropriate steps to protect the information and  
32 records relating to mental health services.

33 (iii) Psychotherapy notes may not be released without  
34 authorization of the patient who is the subject of the request for  
35 release of information;

36 (v) To administrative and office support staff designated to  
37 obtain medical records for those licensed professionals listed in (u)  
38 of this subsection;

39 (w) To a facility that is to receive a person who is  
40 involuntarily committed under chapter 71.05 RCW, or upon transfer of

1 the person from one evaluation and treatment facility to another. The  
2 release of records under this subsection is limited to the  
3 information and records related to mental health services required by  
4 law, a record or summary of all somatic treatments, and a discharge  
5 summary. The discharge summary may include a statement of the  
6 patient's problem, the treatment goals, the type of treatment which  
7 has been provided, and recommendation for future treatment, but may  
8 not include the patient's complete treatment record;

9 (x) To the person's counsel or guardian ad litem, without  
10 modification, at any time in order to prepare for involuntary  
11 commitment or recommitment proceedings, reexaminations, appeals, or  
12 other actions relating to detention, admission, commitment, or  
13 patient's rights under chapter 71.05 RCW;

14 (y) To staff members of the protection and advocacy agency or to  
15 staff members of a private, nonprofit corporation for the purpose of  
16 protecting and advocating the rights of persons with mental disorders  
17 or developmental disabilities. Resource management services may limit  
18 the release of information to the name, birthdate, and county of  
19 residence of the patient, information regarding whether the patient  
20 was voluntarily admitted, or involuntarily committed, the date and  
21 place of admission, placement, or commitment, the name and address of  
22 a guardian of the patient, and the date and place of the guardian's  
23 appointment. Any staff member who wishes to obtain additional  
24 information must notify the patient's resource management services in  
25 writing of the request and of the resource management services' right  
26 to object. The staff member shall send the notice by mail to the  
27 guardian's address. If the guardian does not object in writing within  
28 fifteen days after the notice is mailed, the staff member may obtain  
29 the additional information. If the guardian objects in writing within  
30 fifteen days after the notice is mailed, the staff member may not  
31 obtain the additional information;

32 (z) To all current treating providers of the patient with  
33 prescriptive authority who have written a prescription for the  
34 patient within the last twelve months. For purposes of coordinating  
35 health care, the department or the authority may release without  
36 written authorization of the patient, information acquired for  
37 billing and collection purposes as described in RCW 70.02.050(1)(d).  
38 The department, or the authority, if applicable, shall notify the  
39 patient that billing and collection information has been released to  
40 named providers, and provide the substance of the information

1 released and the dates of such release. Neither the department nor  
2 the authority may release counseling, inpatient psychiatric  
3 hospitalization, or drug and alcohol treatment information without a  
4 signed written release from the client;

5 (aa)(i) To the secretary of social and health services and the  
6 director of the health care authority for either program evaluation  
7 or research, or both so long as the secretary or director, where  
8 applicable, adopts rules for the conduct of the evaluation or  
9 research, or both. Such rules must include, but need not be limited  
10 to, the requirement that all evaluators and researchers sign an oath  
11 of confidentiality substantially as follows:

12 "As a condition of conducting evaluation or research concerning  
13 persons who have received services from (fill in the facility,  
14 agency, or person) I, . . . . ., agree not to divulge, publish, or  
15 otherwise make known to unauthorized persons or the public any  
16 information obtained in the course of such evaluation or research  
17 regarding persons who have received services such that the person who  
18 received such services is identifiable.

19 I recognize that unauthorized release of confidential information  
20 may subject me to civil liability under the provisions of state law.

21 /s/ . . . . ."

22 (ii) Nothing in this chapter may be construed to prohibit the  
23 compilation and publication of statistical data for use by government  
24 or researchers under standards, including standards to assure  
25 maintenance of confidentiality, set forth by the secretary, or  
26 director, where applicable;

27 (bb) To any person if the conditions in RCW 70.02.205 are met;

28 (cc) To the secretary of health for the purposes of the maternal  
29 mortality review panel established in RCW 70.54.450.

30 (3) Whenever federal law or federal regulations restrict the  
31 release of information contained in the information and records  
32 related to mental health services of any patient who receives  
33 treatment for chemical dependency, the department or the authority  
34 may restrict the release of the information as necessary to comply  
35 with federal law and regulations.

36 (4) Civil liability and immunity for the release of information  
37 about a particular person who is committed to the department of  
38 social and health services or the authority under RCW 71.05.280(3)

1 and 71.05.320(4)(c) after dismissal of a sex offense as defined in  
2 RCW 9.94A.030, is governed by RCW 4.24.550.

3 (5) The fact of admission to a provider of mental health  
4 services, as well as all records, files, evidence, findings, or  
5 orders made, prepared, collected, or maintained pursuant to chapter  
6 71.05 RCW are not admissible as evidence in any legal proceeding  
7 outside that chapter without the written authorization of the person  
8 who was the subject of the proceeding except as provided in RCW  
9 70.02.260, in a subsequent criminal prosecution of a person committed  
10 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were  
11 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand  
12 trial, in a civil commitment proceeding pursuant to chapter 71.09  
13 RCW, or, in the case of a minor, a guardianship or dependency  
14 proceeding. The records and files maintained in any court proceeding  
15 pursuant to chapter 71.05 RCW must be confidential and available  
16 subsequent to such proceedings only to the person who was the subject  
17 of the proceeding or his or her attorney. In addition, the court may  
18 order the subsequent release or use of such records or files only  
19 upon good cause shown if the court finds that appropriate safeguards  
20 for strict confidentiality are and will be maintained.

21 (6)(a) Except as provided in RCW 4.24.550, any person may bring  
22 an action against an individual who has willfully released  
23 confidential information or records concerning him or her in  
24 violation of the provisions of this section, for the greater of the  
25 following amounts:

26 (i) One thousand dollars; or

27 (ii) Three times the amount of actual damages sustained, if any.

28 (b) It is not a prerequisite to recovery under this subsection  
29 that the plaintiff suffered or was threatened with special, as  
30 contrasted with general, damages.

31 (c) Any person may bring an action to enjoin the release of  
32 confidential information or records concerning him or her or his or  
33 her ward, in violation of the provisions of this section, and may in  
34 the same action seek damages as provided in this subsection.

35 (d) The court may award to the plaintiff, should he or she  
36 prevail in any action authorized by this subsection, reasonable  
37 attorney fees in addition to those otherwise provided by law.

38 (e) If an action is brought under this subsection, no action may  
39 be brought under RCW 70.02.170.

1        NEW SECTION.    **Sec. 3.**    2016 c 238 s 4 (uncodified) is repealed.

2        **Sec. 4.**    RCW 68.50.104 and 2001 c 82 s 2 are each amended to read  
3 as follows:

4        (1) The cost of autopsy shall be borne by the county in which the  
5 autopsy is performed, except when requested by the department of  
6 labor and industries, in which case, the department shall bear the  
7 cost of such autopsy.

8        (2) ~~(a)~~ Except as provided in ~~((e))~~ (b) of this subsection, when  
9 the county bears the cost of an autopsy, it shall be reimbursed from  
10 the death investigations account, established by RCW 43.79.445, as  
11 follows:

12        ~~((a))~~ (i) Up to forty percent of the cost of contracting for  
13 the services of a pathologist to perform an autopsy;

14        ~~((b))~~ (ii) Up to twenty-five percent of the salary of  
15 pathologists who are primarily engaged in performing autopsies and  
16 are ~~((i))~~ (A) county coroners or county medical examiners, or  
17 ~~((ii))~~ (B) employees of a county coroner or county medical  
18 examiner; and

19        ~~((e))~~ (iii) One hundred percent of the cost of autopsies  
20 conducted under RCW 70.54.450.

21        (b) When the county bears the cost of an autopsy of a child under  
22 the age of three whose death was sudden and unexplained, the county  
23 shall be reimbursed for the expenses of the autopsy when the death  
24 scene investigation and the autopsy have been conducted under RCW  
25 43.103.100 (4) and (5), and the autopsy has been done at a facility  
26 designed for the performance of autopsies.

27        (3) Payments from the account shall be made pursuant to biennial  
28 appropriation: PROVIDED, That no county may reduce funds appropriated  
29 for this purpose below 1983 budgeted levels.

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