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**SUBSTITUTE SENATE BILL 5425**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senators Cleveland, Keiser, Becker, and Hasegawa; 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) Individuals or organizations that represent the populations  
12 most affected by pregnancy-related deaths or pregnancy-associated  
13 deaths and lack of access to maternal health care services;

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

16 ~~((f))~~ (k) A department of health epidemiologist with experience  
17 analyzing perinatal data(

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

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

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

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

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

1 the basis for the panel's proceedings of which the panel member had  
2 personal knowledge acquired independently of the panel or which is  
3 public information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (vi) Require the recipient of the data to include appropriate  
17 citations when the data is used in research reports or publications  
18 of research findings.

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

21 (c) For the purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

20            (i) Employed by the facility;

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

22            (iii) Who is a designated crisis responder;

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

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

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

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

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

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

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

3 (B) A statement evaluating the mental and physical condition of  
4 the patient, and a statement of the probable duration of the  
5 patient's confinement, if such information is requested by the next  
6 of kin, attorney, personal representative, guardian, or conservator;  
7 and

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

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

16 (ii) To a court or its designee in which a motion under chapter  
17 10.77 RCW has been made for involuntary medication of a defendant for  
18 the purpose of competency restoration.

19 (iii) Disclosure under this subsection is mandatory for the  
20 purpose of the federal health insurance portability and  
21 accountability act;

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

35 (ii) Disclosure under this subsection is mandatory for the  
36 purposes of the federal health insurance portability and  
37 accountability act;

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

39 (g) To the prosecuting attorney as necessary to carry out the  
40 responsibilities of the office under RCW 71.05.330(2),

1 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided  
2 access to records regarding the committed person's treatment and  
3 prognosis, medication, behavior problems, and other records relevant  
4 to the issue of whether treatment less restrictive than inpatient  
5 treatment is in the best interest of the committed person or others.  
6 Information must be disclosed only after giving notice to the  
7 committed person and the person's counsel;

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

21 (ii) Disclosure under this subsection is mandatory for the  
22 purposes of the federal health insurance portability and  
23 accountability act;

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

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

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

34 (k) Upon the death of a person. The person's next of kin,  
35 personal representative, guardian, or conservator, if any, must be  
36 notified. Next of kin who are of legal age and competent must be  
37 notified under this section in the following order: Spouse, parents,  
38 children, brothers and sisters, and other relatives according to the  
39 degree of relation. Access to all records and information compiled,



1 obtained, or maintained in the course of providing services to a  
2 deceased patient are governed by RCW 70.02.140;

3 (l) To mark headstones or otherwise memorialize patients interred  
4 at state hospital cemeteries. The department of social and health  
5 services shall make available the name, date of birth, and date of  
6 death of patients buried in state hospital cemeteries fifty years  
7 after the death of a patient;

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

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

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

21 (iii) Disclosure under this subsection is mandatory for the  
22 purposes of the federal health insurance portability and  
23 accountability act;

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

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

36 (p) To qualified staff members of the department, to the  
37 authority, to the director of behavioral health organizations, to  
38 resource management services responsible for serving a patient, or to  
39 service providers designated by resource management services as  
40 necessary to determine the progress and adequacy of treatment and to

1 determine whether the person should be transferred to a less  
2 restrictive or more appropriate treatment modality or facility;

3 (q) Within the mental health service agency where the patient is  
4 receiving treatment, confidential information may be disclosed to  
5 persons employed, serving in bona fide training programs, or  
6 participating in supervised volunteer programs, at the facility when  
7 it is necessary to perform their duties;

8 (r) Within the department and the authority as necessary to  
9 coordinate treatment for mental illness, developmental disabilities,  
10 alcoholism, or substance use disorder of persons who are under the  
11 supervision of the department;

12 (s) Between the department of social and health services, the  
13 department of children, youth, and families, and the health care  
14 authority as necessary to coordinate treatment for mental illness,  
15 developmental disabilities, alcoholism, or drug abuse of persons who  
16 are under the supervision of the department of social and health  
17 services or the department of children, youth, and families;

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

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

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

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

34 (ii) A person authorized to use or disclose information and  
35 records related to mental health services under this subsection  
36 (2)(u) must take appropriate steps to protect the information and  
37 records relating to mental health services.

38 (iii) Psychotherapy notes may not be released without  
39 authorization of the patient who is the subject of the request for  
40 release of information;

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

4 (w) To a facility that is to receive a person who is  
5 involuntarily committed under chapter 71.05 RCW, or upon transfer of  
6 the person from one evaluation and treatment facility to another. The  
7 release of records under this subsection is limited to the  
8 information and records related to mental health services required by  
9 law, a record or summary of all somatic treatments, and a discharge  
10 summary. The discharge summary may include a statement of the  
11 patient's problem, the treatment goals, the type of treatment which  
12 has been provided, and recommendation for future treatment, but may  
13 not include the patient's complete treatment record;

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

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

37 (z) To all current treating providers of the patient with  
38 prescriptive authority who have written a prescription for the  
39 patient within the last twelve months. For purposes of coordinating  
40 health care, the department or the authority may release without

1 written authorization of the patient, information acquired for  
2 billing and collection purposes as described in RCW 70.02.050(1)(d).  
3 The department, or the authority, if applicable, shall notify the  
4 patient that billing and collection information has been released to  
5 named providers, and provide the substance of the information  
6 released and the dates of such release. Neither the department nor  
7 the authority may release counseling, inpatient psychiatric  
8 hospitalization, or drug and alcohol treatment information without a  
9 signed written release from the client;

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

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

24 I recognize that unauthorized release of confidential information  
25 may subject me to civil liability under the provisions of state law.  
26 /s/ . . . . ."

27 (ii) Nothing in this chapter may be construed to prohibit the  
28 compilation and publication of statistical data for use by government  
29 or researchers under standards, including standards to assure  
30 maintenance of confidentiality, set forth by the secretary, or  
31 director, where applicable;

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

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

35 (3) Whenever federal law or federal regulations restrict the  
36 release of information contained in the information and records  
37 related to mental health services of any patient who receives  
38 treatment for chemical dependency, the department or the authority

1 may restrict the release of the information as necessary to comply  
2 with federal law and regulations.

3 (4) Civil liability and immunity for the release of information  
4 about a particular person who is committed to the department of  
5 social and health services or the authority under RCW 71.05.280(3)  
6 and 71.05.320(4)(c) after dismissal of a sex offense as defined in  
7 RCW 9.94A.030, is governed by RCW 4.24.550.

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

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

31 (i) One thousand dollars; or

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

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

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

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

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

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

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

9 (1) The cost of autopsy shall be borne by the county in which the  
10 autopsy is performed, except when requested by the department of  
11 labor and industries, in which case, the department shall bear the  
12 cost of such autopsy.

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

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

19 ~~((b))~~ (ii) Up to twenty-five percent of the salary of  
20 pathologists who are primarily engaged in performing autopsies and  
21 are ~~((i))~~ (A) county coroners or county medical examiners, or  
22 ~~((ii))~~ (B) employees of a county coroner or county medical  
23 examiner; and

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

26 (b) When the county bears the cost of an autopsy of a child under  
27 the age of three whose death was sudden and unexplained, the county  
28 shall be reimbursed for the expenses of the autopsy when the death  
29 scene investigation and the autopsy have been conducted under RCW  
30 43.103.100 (4) and (5), and the autopsy has been done at a facility  
31 designed for the performance of autopsies.

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

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