



The Voice for Open Government in Colorado

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The Honorable John W. Hickenlooper
Office of the Governor
136 State Capitol Building
Denver, CO 80203

Re: Veto Request – Senate Bill 18-223

Dear Gov. Hickenlooper:

The Colorado Freedom of Information Coalition respectfully asks you to veto Senate Bill 18-223, which would close public access to autopsy reports on the deaths of minors. Though intended to protect the privacy of families and prevent “copycat” suicides, the legislation will make it more difficult for journalists – and the public in general – to hold coroners accountable and discover serious flaws in the state’s child welfare system.

Investigative reporters at The Denver Post and 9NEWS used autopsy reports to classify several deaths as abuse for their 2012 series, “Failed to Death,” which led to system reforms. In 2007, the autopsy of 7-year-old Chandler Grafner showed that he died of starvation and dehydration, weighing only 34 pounds at the time of his death. A subsequent KMGH-TV investigation of child deaths and abuse, relying in part on publicly available autopsy reports, also led to systemic reforms.

The child welfare system needs ongoing scrutiny. Child fatalities are going up, according to state child protection ombudsman Stephanie Villafuerte, who told lawmakers that people engaged in bona fide research – *including journalists* – should have access to the reports “because, frankly, it only makes us better as an agency.” More transparency is better, says the office that handles complaints about human services intended to protect children.

But if SB 18-223 becomes law, journalists and academics will have to wage costly court battles (which they cannot afford in today’s journalism landscape) in order to obtain access to the reports they need to examine the child welfare system. A thorough and reform-producing project like “Failed to Death” will be impossible to pursue.

Beyond that, the public may never learn important details about other suspicious or controversial child deaths. In 2015, the coroner’s report on 17-year-old Jessica Hernandez, who was fatally shot by Denver police, helped the public understand whether the shooting was justified. Similarly, the autopsy report of JonBenet Ramsey, the victim of an unsolved murder, shed significant light on the circumstances of that crime.

Keeping autopsy reports from the public would be, in the words of a Steamboat Pilot & Today editorial, “to risk hiding, in a dark closet, the mortal peril that young children sometimes face. That would be a mistake, given

that bringing those tragedies to light is one of the best ways to motivate society to increase protections for children at risk.”

In asking the legislature to close public access to their taxpayer-funded work, the coroners presented no actual *evidence* (only unsupported conjecture) that disclosure of juvenile autopsy reports encourages other children to commit suicide, nor did they show any examples of autopsy reports being irresponsibly published. Even if it *were* true that public access to autopsy reports of suicide victims contributed materially to the incidence of teen suicides (and it is not true), there would be no logical reason to permanently seal from public view thousands of public records that have nothing to do with teenagers who commit suicide – the bill seals all autopsy reports of anyone under the age of 18, regardless of the cause or manner of death.

Autopsy reports have long been specifically excluded from the Colorado Open Records Act provision that makes medical records confidential. And if there is a compelling reason to keep all or portions of an autopsy report out of public view, there is a process in place for coroners to ask a court for an order authorizing the coroner to do so. That process has been used in extraordinary circumstances, such as after the Columbine shootings. Coroners also can obtain judicial authorization to withhold all or portions of autopsy reports (whether concerning juveniles or adults) during the early stages of an ongoing criminal investigation, such as occurred in the murders of JonBenet Ramsey and Heather DeWild (sealed in its entirety for 90 days following discovery of the corpse).

In short, there is simply no pressing need for the drastically overbroad sealing of public records this bill would effect. The cost to our society from losing access to information that sheds light on a wide variety of government offices greatly outweighs the bill’s marginal (if any) benefit to the public.

For these reasons, we urge you to veto SB 18-223.

Sincerely,



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Positions taken by the Colorado Freedom of Information Coalition do not necessarily represent the positions of each individual member or member organization.