

2023404e1

1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; defining the term "killing of a minor";
4 creating an exemption from public records requirements
5 for a photograph or video or audio recording of the
6 killing of a minor, with exceptions; providing
7 construction; requiring that any viewing, copying,
8 listening to, or other handling of such photograph or
9 video or audio recording be under the direct
10 supervision of the custodian of the record or his or
11 her designee; requiring that surviving parents of a
12 minor who was killed be given reasonable notice of any
13 petition to view or copy a photograph or video
14 recording, or to listen to or copy any such audio
15 recording, of the killing of the minor; a copy of the
16 petition; and the opportunity to be present and heard
17 at related hearings; providing penalties; providing
18 construction; providing for retroactive application;
19 providing for future legislative review and repeal of
20 the exemption; providing statements of public
21 necessity; providing a short title; amending s.
22 406.135, F.S.; defining the terms "domestic violence"
23 and "minor"; revising the definition of the term
24 "medical examiner"; creating an exemption from public
25 records requirements for autopsy reports of minors
26 whose deaths were related to acts of domestic
27 violence; providing exceptions; requiring that any
28 viewing, copying, listening to, or other handling of
29 such autopsy reports be under the direct supervision

2023404e1

30 of the custodian of the record or his or her designee;
31 requiring that certain surviving parents of a minor
32 whose death was related to an act of domestic violence
33 be given reasonable notice of any petition to view or
34 copy the minor's autopsy report, a copy of the
35 petition, and the opportunity to be present and heard
36 at related hearings; providing penalties; providing
37 construction; providing for retroactive application;
38 providing for future legislative review and repeal of
39 the exemption; providing a statement of public
40 necessity; providing an effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Paragraph (p) of subsection (2) of section
45 119.071, Florida Statutes, is amended to read:

46 119.071 General exemptions from inspection or copying of
47 public records.—

48 (2) AGENCY INVESTIGATIONS.—

49 (p)1. As used in this paragraph, the term:

50 a. "Killing of a law enforcement officer who was acting in
51 accordance with his or her official duties" means all acts or
52 events that cause or otherwise relate to the death of a law
53 enforcement officer who was acting in accordance with his or her
54 official duties, including any related acts or events
55 immediately preceding or subsequent to the acts or events that
56 were the proximate cause of death.

57 b. "Killing of a minor" means all acts or events that cause
58 or otherwise relate to the death of a victim who has not yet

2023404e1

59 reached the age of 18 at the time of the death, including any
60 related acts or events immediately preceding or subsequent to
61 the acts or events that were the proximate cause of the death of
62 a victim under the age of 18, events that depict a victim under
63 the age of 18 being killed, or events that depict the body of a
64 victim under the age of 18 who has been killed.

65 c. "Killing of a victim of mass violence" means events that
66 depict either a victim being killed or the body of a victim
67 killed in an incident in which three or more persons, not
68 including the perpetrator, are killed by the perpetrator of an
69 intentional act of violence.

70 2.a. A photograph or video or audio recording that depicts
71 or records the killing of a law enforcement officer who was
72 acting in accordance with his or her official duties or the
73 killing of a victim of mass violence is confidential and exempt
74 from s. 119.07(1) and s. 24(a), Art. I of the State
75 Constitution, except that a surviving spouse of the decedent may
76 view and copy any such photograph or video recording or listen
77 to or copy any such audio recording. If there is no surviving
78 spouse, the surviving parents shall have access to such records.
79 If there is no surviving spouse or parent, the adult children
80 shall have access to such records. Nothing in this sub-
81 subparagraph ~~paragraph~~ precludes a surviving spouse, parent, or
82 adult child of the victim from sharing or publicly releasing
83 such photograph or video or audio recording.

84 b. A photograph or video or audio recording that depicts or
85 records the killing of a minor is confidential and exempt from
86 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
87 except that a surviving parent of the deceased minor may view

2023404e1

88 and copy any such photograph or video recording or listen to or
89 copy any such audio recording. Nothing in this sub-subparagraph
90 precludes a surviving parent of the victim from sharing or
91 publicly releasing such photograph or video or audio recording.

92 3.a. The deceased's surviving relative, with whom authority
93 rests to obtain such records, may designate in writing an agent
94 to obtain such records.

95 b. Notwithstanding subparagraph 2., a local governmental
96 entity, or a state or federal agency, in furtherance of its
97 official duties, pursuant to a written request, may view or copy
98 a photograph or video recording or may listen to or copy an
99 audio recording of the killing of a law enforcement officer who
100 was acting in accordance with his or her official duties, ~~or~~ the
101 killing of a victim of mass violence, or the killing of a minor,
102 and, unless otherwise required in the performance of its duties,
103 the identity of the deceased shall remain confidential and
104 exempt.

105 c. The custodian of the record, or his or her designee, may
106 not permit any other person to view or copy such photograph or
107 video recording or listen to or copy such audio recording
108 without a court order.

109 4.a. The court, upon a showing of good cause, may issue an
110 order authorizing any person to view or copy a photograph or
111 video recording that depicts or records the killing of a law
112 enforcement officer who was acting in accordance with his or her
113 official duties, ~~or~~ the killing of a victim of mass violence, or
114 the killing of a minor, or to listen to or copy an audio
115 recording that depicts or records the killing of a law
116 enforcement officer who was acting in accordance with his or her

2023404e1

117 official duties, ~~or~~ the killing of a victim of mass violence, or
118 the killing of a minor, and may prescribe any restrictions or
119 stipulations that the court deems appropriate.

120 b. In determining good cause, the court shall consider:

121 (I) Whether such disclosure is necessary for the public
122 evaluation of governmental performance;

123 (II) The seriousness of the intrusion into the family's
124 right to privacy and whether such disclosure is the least
125 intrusive means available; and

126 (III) The availability of similar information in other
127 public records, regardless of form.

128 c. In all cases, the viewing, copying, listening to, or
129 other handling of a photograph or video or audio recording that
130 depicts or records the killing of a law enforcement officer who
131 was acting in accordance with his or her official duties, ~~or~~ the
132 killing of a victim of mass violence, or the killing of a minor
133 must be under the direct supervision of the custodian of the
134 record or his or her designee.

135 5.a. A surviving spouse shall be given reasonable notice of
136 a petition filed with the court to view or copy a photograph or
137 video recording that depicts or records the killing of a law
138 enforcement officer who was acting in accordance with his or her
139 official duties or the killing of a victim of mass violence, or
140 to listen to or copy any such audio recording, a copy of such
141 petition, and reasonable notice of the opportunity to be present
142 and heard at any hearing on the matter. If there is no surviving
143 spouse, such notice must be given to the parents of the deceased
144 and, if there is ~~the deceased has~~ no surviving parent, to the
145 adult children of the deceased.

2023404e1

146 b. A surviving parent must be given reasonable notice of a
147 petition filed with the court to view or copy a photograph or
148 video recording that depicts or records the killing of a minor
149 or to listen to or copy any such audio recording; a copy of such
150 petition; and reasonable notice of the opportunity to be present
151 and heard at any hearing on the matter.

152 6.a. Any custodian of a photograph or video or audio
153 recording that depicts or records the killing of a law
154 enforcement officer who was acting in accordance with his or her
155 official duties, ~~or~~ the killing of a victim of mass violence, or
156 the killing of a minor who willfully and knowingly violates this
157 paragraph commits a felony of the third degree, punishable as
158 provided in s. 775.082, s. 775.083, or s. 775.084.

159 b. Any person who willfully and knowingly violates a court
160 order issued pursuant to this paragraph commits a felony of the
161 third degree, punishable as provided in s. 775.082, s. 775.083,
162 or s. 775.084.

163 c. A criminal or administrative proceeding is exempt from
164 this paragraph but, unless otherwise exempted, is subject to all
165 other provisions of chapter 119; however, this paragraph does
166 not prohibit a court in a criminal or administrative proceeding
167 upon good cause shown from restricting or otherwise controlling
168 the disclosure of a killing, crime scene, or similar photograph
169 or video or audio recording in the manner prescribed in this
170 paragraph.

171 7. The exemption in this paragraph shall be given
172 retroactive application and shall apply to all photographs or
173 video or audio recordings that depict or record the killing of a
174 law enforcement officer who was acting in accordance with his or

2023404e1

175 her official duties, ~~or~~ the killing of a victim of mass
176 violence, or the killing of a minor, regardless of whether the
177 killing of the person occurred before, on, or after May 23,
178 2019. However, nothing in this paragraph is intended to, nor may
179 be construed to, overturn or abrogate or alter any existing
180 orders duly entered into by any court of this state, as of the
181 effective date of this act, which restrict or limit access to
182 any photographs or video or audio recordings that depict or
183 record the killing of a law enforcement officer who was acting
184 in accordance with his or her official duties, ~~or~~ the killing of
185 a victim of mass violence, or the killing of a minor.

186 8. This paragraph applies only to such photographs and
187 video and audio recordings held by an agency.

188 9. This paragraph is subject to the Open Government Sunset
189 Review Act in accordance with s. 119.15 and shall stand repealed
190 on October 2, 2028 ~~2024~~, unless reviewed and saved from repeal
191 through reenactment by the Legislature.

192 Section 2. (1) The Legislature finds that it is a public
193 necessity that photographs and video and audio recordings that
194 depict or record the killing of a minor be made confidential and
195 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
196 Article I of the State Constitution and that such exemption be
197 applied retroactively. The Legislature finds that photographs
198 and video and audio recordings that depict or record the killing
199 of a minor render a graphic and often disturbing visual or aural
200 representation of the deceased. Such photographs and video and
201 audio recordings provide a view of the deceased in the final
202 moments of life, in which they are often bruised, bloodied,
203 broken, with bullet wounds or other wounds, lacerated,

2023404e1

204 dismembered, or decapitated. As such, photographs and video and
205 audio recordings that depict or record the killing of a minor
206 are highly sensitive representations of the deceased which, if
207 heard, viewed, copied, or publicized, could result in trauma,
208 sorrow, humiliation, or emotional injury to the immediate family
209 of the deceased and detract from the memory of the deceased. The
210 Legislature recognizes that the existence of the Internet and
211 the proliferation of personal computers and cellular telephones
212 throughout the world encourages and promotes the wide
213 dissemination of such photographs and video and audio recordings
214 24 hours a day and that widespread unauthorized dissemination of
215 such photographs and video and audio recordings would subject
216 the immediate family of the deceased to continuous injury.

217 (2) In addition to the emotional and mental injury that
218 these photographs and video and audio recordings may cause
219 family members, the Legislature is also concerned that
220 dissemination of photographs and video and audio recordings that
221 depict or record the killing of a minor is harmful to the
222 public. The Legislature is concerned that the release of these
223 photographs and video and audio recordings may educe violent
224 acts by persons who have a mental illness or who are morally
225 corrupt.

226 Section 3. Sections 4 and 5 of this act may be cited as the
227 "Rex and Brody Act."

228 Section 4. Section 406.135, Florida Statutes, is amended to
229 read:

230 406.135 Autopsies; confidentiality of photographs and video
231 and audio recordings; confidentiality of reports of minor
232 victims of domestic violence; exemption.-

2023404e1

233 (1) As used in ~~For the purpose of~~ this section, the term:

234 (a) "Domestic violence" has the same meaning as in s.
235 741.28.

236 (b) "Medical examiner" means any district medical examiner,
237 associate medical examiner, or substitute medical examiner
238 acting pursuant to this chapter, as well as any employee,
239 deputy, or agent of a medical examiner or any other person who
240 may obtain possession of a report, photograph, or audio or video
241 recording of an autopsy in the course of assisting a medical
242 examiner in the performance of his or her official duties.

243 (c) "Minor" means a person younger than 18 years of age who
244 has not had the disability of nonage removed pursuant to s.
245 743.01 or s. 743.015.

246 (2) (a) A photograph or video or audio recording of an
247 autopsy held by a medical examiner is confidential and exempt
248 from s. 119.07(1) and s. 24(a), Art. I of the State
249 Constitution, except that a surviving spouse may view and copy a
250 photograph or video recording or listen to or copy an audio
251 recording of the deceased spouse's autopsy. If there is no
252 surviving spouse, then the surviving parents shall have access
253 to such records. If there is no surviving spouse or parent, then
254 an adult child shall have access to such records.

255 (b) An autopsy report of a minor whose death was related to
256 an act of domestic violence held by a medical examiner is
257 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
258 of the State Constitution, except that a surviving parent of the
259 deceased minor may view and copy the autopsy report if the
260 surviving parent did not commit the act of domestic violence
261 which led to the minor's death.

2023404e1

262 (3) (a) The deceased's surviving relative, with whom
263 authority rests to obtain such records, may designate in writing
264 an agent to obtain such records.

265 (b) Notwithstanding subsection (2), a local governmental
266 entity, or a state or federal agency, in furtherance of its
267 official duties, pursuant to a written request, may:

268 1. View or copy a photograph or video recording or may
269 listen to or copy an audio recording of an autopsy; and

270 2. View or copy an autopsy report of a minor whose death
271 was related to an act of domestic violence.

272
273 Unless otherwise required in the performance of official ~~their~~
274 duties, the identity of the deceased shall remain confidential
275 and exempt.

276 (c) The custodian of the record, or his or her designee,
277 may not permit any other person, except an agent designated in
278 writing by the deceased's surviving relative with whom authority
279 rests to obtain such records, to view or copy an autopsy report
280 of a minor whose death was related to an act of domestic
281 violence or a ~~such~~ photograph or video recording of an autopsy
282 or listen to or copy an audio recording of an autopsy without a
283 court order.

284 (4) (a) The court, upon a showing of good cause, may issue
285 an order authorizing any person to view or copy an autopsy
286 report of a minor whose death was related to an act of domestic
287 violence or a photograph or video recording of an autopsy or to
288 listen to or copy an audio recording of an autopsy and may
289 prescribe any restrictions or stipulations that the court deems
290 appropriate.

2023404e1

291 (b) In determining good cause, the court shall consider
292 whether such disclosure is necessary for the public evaluation
293 of governmental performance; the seriousness of the intrusion
294 into the family's right to privacy and whether such disclosure
295 is the least intrusive means available; and the availability of
296 similar information in other public records, regardless of form.

297 (c) In all cases, the viewing, copying, listening to, or
298 other handling of an autopsy report of a minor whose death was
299 related to an act of domestic violence or a photograph or video
300 or audio recording of an autopsy must be under the direct
301 supervision of the custodian of the record or his or her
302 designee.

303 (5) (a) A surviving spouse must ~~shall~~ be given reasonable
304 notice of a petition filed with the court to view or copy a
305 photograph or video recording of an autopsy or a petition to
306 listen to or copy an audio recording, a copy of such petition,
307 and reasonable notice of the opportunity to be present and heard
308 at any hearing on the matter. If there is no surviving spouse,
309 then such notice must be given to the parents of the deceased,
310 and if there is ~~the deceased has~~ no living parent, then to the
311 adult children of the deceased.

312 (b) For an autopsy report of a minor whose death was
313 related to an act of domestic violence, any surviving parent who
314 did not commit the act of domestic violence which led to the
315 minor's death must be given reasonable notice of a petition
316 filed with the court to view or copy the autopsy report, a copy
317 of such petition, and reasonable notice of the opportunity to be
318 present and heard at any hearing on the matter.

319 (6) (a) Any custodian of an autopsy report of a minor whose

2023404e1

320 death was related to an act of domestic violence or a photograph
321 or video or audio recording of an autopsy who willfully and
322 knowingly violates this section commits a felony of the third
323 degree, punishable as provided in s. 775.082, s. 775.083, or s.
324 775.084.

325 (b) Any person who willfully and knowingly violates a court
326 order issued pursuant to this section commits a felony of the
327 third degree, punishable as provided in s. 775.082, s. 775.083,
328 or s. 775.084.

329 (7) A criminal or administrative proceeding is exempt from
330 this section, ~~but unless otherwise exempted,~~ is subject to all
331 other provisions of chapter 119 unless otherwise exempted.
332 ~~provided however that~~ This section does not prohibit a court in
333 a criminal or administrative proceeding upon good cause shown
334 from restricting or otherwise controlling the disclosure of an
335 autopsy, crime scene, or similar report, photograph, or video or
336 audio recording recordings in the manner prescribed herein.

337 (8) The exemptions in this section ~~This exemption~~ shall be
338 given retroactive application.

339 (9) This section is subject to the Open Government Sunset
340 Review Act in accordance with s. 119.15 and shall stand repealed
341 on October 2, 2028, unless reviewed and saved from repeal
342 through reenactment by the Legislature.

343 Section 5. The Legislature finds that it is a public
344 necessity that autopsy reports of minors whose deaths were
345 related to acts of domestic violence be made confidential and
346 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
347 Article I of the State Constitution. The Legislature finds that
348 autopsy reports describe the deceased in a graphic and often

2023404e1

349 disturbing fashion and that autopsy reports of minors whose
350 deaths were related to acts of domestic violence may describe
351 the deceased nude, bruised, bloodied, broken, with bullet wounds
352 or other wounds, lacerated, dismembered, or decapitated. As
353 such, these reports often contain highly sensitive descriptions
354 of the deceased which, if heard, viewed, copied, or publicized,
355 could result in trauma, sorrow, humiliation, or emotional injury
356 to the immediate family and minor friends of the deceased, as
357 well as injury to the memory of the deceased. The Legislature
358 recognizes that the existence of the Internet and the
359 proliferation of websites throughout the world encourages and
360 promotes the wide dissemination of reports and publications 24
361 hours a day and that widespread unauthorized dissemination of
362 autopsy reports of minors whose deaths were related to acts of
363 domestic violence would subject the immediate family and minor
364 friends of the deceased to continuous injury. The Legislature
365 further finds that the exemption provided in this act should be
366 given retroactive application because it is remedial in nature.

367 Section 6. This act shall take effect upon becoming a law.