

THE FLORIDA SENATE
2019 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

SB 186 — Public Records/Victim of Mass Violence

by Senators Lee, Book, and Stewart

The bill amends s. 406.136, F.S., and transfers this section to s. 119.071, F.S. The bill retains an existing public record exemption which provides that a photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties is confidential and exempt from public disclosure. The bill creates a new public records exemption which provides that a photograph or video or audio recording that depicts or records the killing of a victim of mass violence is confidential and exempt from public disclosure. The existing exemption and the new exemption only apply to photographs and video and audio recordings held by an agency.

The bill defines the term “killing of a victim of mass violence” as events that depict either a victim being killed or the body of a victim killed in an incident in which three or more persons, not including the perpetrator, are killed by the perpetrator of an intentional act of violence.

The bill retains provisions relevant to the existing exemption and applies them to the new exemption, including:

- Specifying who may obtain such photograph or video or audio recording, the process of obtaining them pursuant to a court order when good cause is shown, and factors a court must consider in determining good cause;
- Providing that it is a third degree felony for any custodian of such photograph or video or audio recording to willfully and knowingly violate exemption requirements;
- Specifying that the exemption is retroactive and applies to all such photographs or video or audio recordings; and
- Providing that the exemption does not overturn or abrogate or alter any existing orders duly entered into by any court of this state, as of the effective date of this act, which restrict or limit access to such photographs or video or audio recordings.

The bill specifies that a surviving spouse, parent, or adult child of the victim is not precluded from sharing or publicly releasing such photograph or video or audio recording.

The bill provides a public necessity statement as required by the State Constitution. The statement includes legislative findings regarding photographs and video and audio recordings that depict or record the killing of a victim of mass violence. These findings indicate:

- Such photographs and video or audio recordings render a graphic and often disturbing visual or aural representation of the deceased which, if heard, viewed, copied, or publicized, could result in trauma, sorrow, humiliation, or emotional injury to the immediate family of the deceased and detract from the memory of the deceased;
- Widespread unauthorized dissemination of such photographs and video and audio recordings would subject the immediate family of the deceased to continuous injury;
- Dissemination of such photographs and video and audio recordings is harmful to the public because terrorists will use them to attract followers, bring attention to their cause,

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and inspire others to kill, and such dissemination may also educe violent acts by the mentally ill or morally corrupt;

- Other types of available information, such as crime scene reports, continue to be available and are less intrusive and injurious to the immediate family of the deceased and continue to provide for public oversight; and
- The exemption should be given retroactive application because it is remedial in nature.

Finally, the bill provides for repeal of the exemption on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 108-6