

Committee on Criminal Justice

CS/HB 411 — Public Records/Photos and Recordings/Killing of Person

by State Affairs Committee and Rep. Burgin (CS/CS/SB 416 by Judiciary Committee; Criminal Justice Committee; and Senator Bogdanoff)

This bill creates an exemption from public records requirements for photographs and video and audio recordings that depict or record the killing of a person. (The exemption is comparable to the public records exemption in s. 406.135, F.S., relating to photographs and video and audio recordings of an autopsy held by a medical examiner.) The exemption is subject to the Open Government Sunset Review Act and as such, will be repealed on October 2, 2016, unless reviewed and reenacted by the Legislature.

The exemption permits a surviving spouse to view, listen, and copy these photographs and video and audio recordings that depict or record the killing of a person. If there is no surviving spouse, then the deceased's surviving parents may view and copy them. If there are no surviving parents, then an adult child of the deceased may view and copy them. The surviving relative who has the authority to view and copy these records is authorized to designate in writing an agent to obtain the exempted records.

Additionally, federal, state, and local governmental agencies, upon written request, may have access to these records in the performance of their duties. Other than these exceptions, the custodian is prohibited from releasing the records to any other person not authorized under the exemption without a court order. Knowingly violating these provisions is a third degree felony.

The public records exemption created in the bill is given retroactive application, with exceptions. The public records exemption created in the bill does not apply to any order in effect on July 1, 2011, which was duly entered by a court of this state and which restricts or limits access to any photograph or video or audio recording that depicts or records the killing of a person.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 34-4; House 111-6