

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Gelber and McGriff offered the following:

**Amendment to Substitute Amendment (822831) (with title amendment)**

On page 1, line 18 through page 4, line 31,  
remove from the substitute amendment: all of said lines

and insert in lieu thereof:

Section 1. (1) All photographs, audio recordings, or video recordings of an autopsy in the possession of a district medical examiner pursuant to chapter 406 are confidential and exempt from the provisions of s. 119.07(1), and s. 24(a), Article I of the State Constitution, except as otherwise provided herein. Photographs, audio recordings, and video recordings of an autopsy made confidential and exempt by this section shall be disclosed for viewing or listening in all cases, but may only be copied:

(a) Pursuant to a written waiver by the surviving spouse. If there is no surviving spouse, then pursuant to a written waiver by a surviving parent; and, if there is no surviving spouse or parent, then pursuant to written waiver by

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1 an adult child of the deceased; or

2 (b) Pursuant to a written request by a local  
3 government, state agency, or federal agency, in the  
4 furtherance of its official duties; and, unless otherwise  
5 required in the performance of their duties, the identity of  
6 the deceased shall remain confidential and exempt.

7 (2) Any person may petition the court for an order to  
8 make the photographs, audio recordings, and video recordings  
9 available for copying. Pursuant to such a public records  
10 petition, and the petitioner's showing of good cause, the  
11 court may authorize copying pursuant to the terms and  
12 conditions which it deems appropriate; provided that the  
13 surviving spouse is given reasonable notice of the petition,  
14 and a copy of the petition, and reasonable notice of the  
15 opportunity to be present and heard at any hearing on the  
16 matter. If there is no surviving spouse, then such notice must  
17 be given to the deceased's parents, and if the deceased has no  
18 living parents, then to the adult children of the deceased.

19 In determining good cause the court shall consider:

20 a) The necessity of the copying in determining  
21 governmental accountability;

22 b) The ramifications of the copying with respect to  
23 the family's right to privacy; and

24 c) The availability of similar information in other  
25 forms.

26 (3) The viewing or copying of an autopsy photograph,  
27 audio recording, or video recording pursuant to this section  
28 shall be under the direct supervision of the custodian of the  
29 record or his or her designee.

30 (4) The district medical examiner or associate medical  
31 examiner, in his or her official capacity, may use the

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1 photographs or video recordings for the purposes of seeking  
2 another expert medical opinion, for providing professional  
3 training, for case-related medical or scientific research  
4 purposes, or for other purposes solely related to the  
5 accomplishment of the district or associate medical examiner's  
6 duties and responsibilities. However, the identity of the  
7 deceased shall remain confidential and exempt, unless a waiver  
8 has been obtained as provided for in subsection (1)(a).

9 (5) Any person who willfully or knowingly violates  
10 this section commits a felony of the third degree, punishable  
11 as provided in ss. 775.082, 775.083, or 775.084.

12 (6) This exemption shall be given retroactive  
13 application. This section is subject to the Open Government  
14 Sunset Review Act of 1995 in accordance with s. 119.15, and  
15 shall stand repealed on October 2, 2006, unless reviewed and  
16 saved from repeal through reenactment by the Legislature.

17 Section 2. The Legislature finds that it is a public  
18 necessity that copies of photographs, audio recordings, or  
19 video recordings of an autopsy be made confidential and  
20 exempt. Photographs, audio recordings, or video recordings of  
21 an autopsy are highly sensitive, graphic depictions of the  
22 deceased, which, if copied, or publicized, could result in  
23 trauma, sorrow, humiliation, or emotional injury to the  
24 immediate family of the deceased, and is an invasion of that  
25 family's privacy, as well as injurious to the memories of the  
26 deceased. Furthermore, the Legislature finds that the  
27 existence of the World Wide Web and the proliferation of  
28 personal computers throughout the world encourages and  
29 promotes the worldwide dissemination of photographs and video  
30 recordings 24 hours a day, and that widespread dissemination  
31 of autopsy photographs and video recordings would subject the

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1 immediate family of the deceased to continuous injury. The  
2 Legislature further finds that there are other types of  
3 available information, such as the autopsy report, which is  
4 less intrusive and injurious to the immediate family member of  
5 the deceased but which continues to provide for public  
6 oversight. Furthermore, the Legislature finds that it is a  
7 public necessity that the exemption provided in this act be  
8 given retroactive application because it is remedial in  
9 nature.

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12 ===== T I T L E A M E N D M E N T =====

13 And the title is amended as follows:

14 On page 5, lines 13 through 31, of the amendment  
15 remove from the title of the amendment: all of said lines

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17 and insert in lieu thereof:

18 An act relating to public records; providing an  
19 exemption from the public records law for  
20 copying photographs and video and audio  
21 recordings of an autopsy; providing an  
22 exemption for certain members of the immediate  
23 family, or a representative thereof, or a state  
24 or federal agency; providing for further  
25 exceptions to the exemption; providing a  
26 penalty; providing for future legislative

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