

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on State Administration offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause  
and insert in lieu thereof:

Section 1. (1) All photographs 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 and video recordings of an autopsy made confidential and exempt by this section shall be disclosed for viewing or copying:

(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 an adult child of the deceased; or

(b) Pursuant to a written request by a local government, state agency, or federal agency, in the

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1 furtherance of its official duties; and, unless otherwise  
2 required in the performance of their duties, the identity of  
3 the deceased shall remain confidential and exempt.

4 (2) Any person may petition the court for an order to  
5 make the photographs and video recordings available for  
6 inspection. Pursuant to such a public records petition, and  
7 the petitioner's showing of good cause, the court may  
8 authorize inspection pursuant to the terms and conditions  
9 which it deems appropriate, but shall not authorize copying;  
10 provided that the surviving spouse is given reasonable notice  
11 of the petition, and a copy of the petition, and reasonable  
12 notice of the opportunity to be present and heard at any  
13 hearing on the matter. If there is no surviving spouse, then  
14 such notice must be given to the deceased's parents, and if  
15 the deceased has no living parents, then to the adult children  
16 of the deceased.

17 In determining good cause the court shall consider:

- 18 a) The necessity of the viewing in determining  
19 governmental accountability;  
20 b) The ramifications of the viewing with respect to  
21 the family's right to privacy; and  
22 c) The availability of similar information in other  
23 forms.

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

28 (4) The district medical examiner or associate medical  
29 examiner, in his or her official capacity, may use the  
30 photographs or video recordings for the purposes of seeking  
31 another expert medical opinion, for providing professional

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

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

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

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

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1 autopsy report, which is less intrusive and injurious to the  
2 immediate family member of the deceased but which continues to  
3 provide for public oversight. Furthermore, the Legislature  
4 finds that it is a public necessity that the exemption  
5 provided in this act be given retroactive application because  
6 it is remedial in nature and it furthers the public policy  
7 embodied in s. 382.008, that all information on the death  
8 certificate relating to the cause of death is confidential.

9           Section 3. This act shall take effect upon becoming a  
10 law and shall apply to all autopsy photographs and video  
11 recordings in the custody of a district medical examiner,  
12 whether made before or after the effective date of this act.

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

16 And the title is amended as follows:

17           On page 1, lines 3 through 7,  
18 remove from the title of the bill: all of said lines

19  
20 and insert in lieu thereof:

21           exemption from public records requirements for  
22           photographs and video recordings of an autopsy;  
23           providing exceptions; providing a