

Amendment No. ____ (for drafter's use only)

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

11 Representative(s) Gelber and McGriff offered the following:

Amendment (with title amendment)

14 On page 1, line 14, through page 2, line 28,
15 remove from the bill: all of said lines

17 and insert in lieu thereof:

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

26 (a) Pursuant to a written waiver by the surviving
27 spouse. If there is no surviving spouse, then pursuant to a
28 written waiver by a surviving parent; and, if there is no
29 surviving spouse or parent, then pursuant to written waiver by
30 an adult child of the deceased; or

31 (b) Pursuant to a written request by a local

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

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

17 In determining good cause the court shall consider:

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

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

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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

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