

By Senators King and Posey

8-1437B-01

1                                   A bill to be entitled  
2           An act relating to public records; providing an  
3           exemption from the public records law for  
4           photographs and video recordings of an autopsy;  
5           providing for access by a state or federal  
6           agency as provided by law and in furtherance of  
7           the agency's statutory duties; providing a  
8           penalty; providing for future legislative  
9           review and repeal; providing a finding of  
10          public necessity; providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14           Section 1. (1) A photograph or video recording of an  
15 autopsy is confidential and exempt from the requirements of  
16 section 119.07(1), Florida Statutes, and Section 24(a) of  
17 Article I of the State Constitution. Notwithstanding this  
18 section, the custodian of a photograph or video recording of  
19 an autopsy shall grant a state or federal agency access to the  
20 photograph or video recording as provided by law and in  
21 furtherance of the agency's statutory duties.

22           (2) Any person who violates this section commits a  
23 felony of the third degree, punishable as provided in section  
24 775.082, section 775.083, or section 775.085, Florida  
25 Statutes.

26           (3) This section is subject to the Open Government  
27 Sunset Review Act of 1995 in accordance with section 119.15,  
28 Florida Statutes, and shall stand repealed on October 2, 2006,  
29 unless reviewed and saved from repeal through reenactment by  
30 the Legislature.

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1           Section 2. The Legislature finds that photographs or  
2 video recordings of an autopsy show the deceased in graphic  
3 and often disturbing fashion. Such photographs or video  
4 recordings may depict the deceased nude, bruised, bloodied,  
5 broken, with bullet or other wounds, cut open, dismembered, or  
6 decapitated. As such, photographs or video recordings of an  
7 autopsy are highly sensitive depictions of the deceased which,  
8 if copied and publicized, could result in trauma, sorrow,  
9 humiliation, or emotional injury to the immediate family of  
10 the deceased, as well as injury to the memory of the deceased.  
11 The Legislature notes that the existence of the World Wide Web  
12 and the proliferation of personal computers throughout the  
13 world encourages and promotes the wide dissemination of  
14 photographs and video recordings 24 hours a day and that  
15 widespread dissemination of autopsy photographs and video  
16 recordings would subject the immediate family of the deceased  
17 to continuous injury. The Legislature further notes that there  
18 continues to be other types of available information, such as  
19 the autopsy report, which are less intrusive and injurious to  
20 the immediate family members of the deceased but which  
21 continue to provide for public oversight. Given the likelihood  
22 of injury to immediate family members by the dissemination of  
23 autopsy photographs and video recordings and the availability  
24 of less intrusive means of providing public oversight, the  
25 Legislature finds that it is a public necessity that  
26 photographs or video recordings of an autopsy be made  
27 confidential and exempt from section 119.07(1) and Section  
28 24(a) of Article I of the State Constitution.

29           Section 3. This act shall take effect upon becoming a  
30 law.

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SENATE SUMMARY

Provides that photographs and video recordings of an autopsy are exempt from the public records law. Provides for access to a photograph or video recording by a state or federal agency as provided by law. Provides that a violation of the act is a third-degree felony. Provides for future legislative review and repeal.