

1                   A bill to be entitled  
2           An act relating to public records; creating s. 925.131,  
3           F.S.; providing definitions; providing an exemption from  
4           public records law for investigative or crime scene  
5           photographs or video recordings of a deceased person, a  
6           part of a deceased person, or any part of a person's  
7           extreme, severe, or acute injuries held by a law  
8           enforcement agency; providing exceptions for certain  
9           relatives, injured persons, or their designees; permitting  
10          a local or county governmental entity, or a state or  
11          federal agency, in furtherance of its official duties, to  
12          access such records pursuant to a written request to the  
13          law enforcement agency in possession of such records;  
14          permitting a court, upon a showing of good cause, to  
15          authorize any person to view or copy such a record and  
16          impose any restrictions or stipulations that it deems  
17          appropriate; requiring notice of such a proceeding, a copy  
18          of the petition, and notice of the opportunity to be  
19          present and heard at any hearing to be provided to an  
20          injured person or to specified relatives of a deceased  
21          person; requiring that the viewing, copying, or other  
22          handling of such a record be under the direct supervision  
23          of the custodian of the record or his or her designee;  
24          providing criminal penalties for violations of statute or  
25          court order; exempting specified proceedings; permitting a  
26          judge or other presiding officer in a criminal, civil, or  
27          administrative proceeding upon good cause shown to  
28          restrict or otherwise control the disclosure of such a

29 record; providing for future legislative review and  
 30 repeal; providing a finding of public necessity; providing  
 31 for retroactive effect; providing a contingent effective  
 32 date.

33  
 34 Be It Enacted by the Legislature of the State of Florida:

35  
 36 Section 1. Section 925.131, Florida Statutes, is created  
 37 to read:

38 925.131 Public records exemption for certain law  
 39 enforcement photographs or video recordings.--

40 (1) For purposes of this section, the term:

41 (a) "Law enforcement agency" means any state agency or  
 42 unit of government in this state that has authority to employ or  
 43 appoint law enforcement officers, as defined in s. 943.10, as  
 44 well as any employee, deputy, or agent of such an agency or any  
 45 other person who may obtain possession of a restricted  
 46 photograph or recording in the course of assisting such an  
 47 agency in the performance of its duties.

48 (b) "Restricted photograph or recording" means an  
 49 investigative or crime scene photograph or video recording of a  
 50 deceased person, a part of a deceased person, or any part of a  
 51 person's extreme, severe, or acute injuries.

52 (2) (a) A restricted photograph or recording held by a law  
 53 enforcement agency is confidential and exempt from s. 119.07(1)  
 54 and s. 24(a), Art. I of the State Constitution, except that:

55 1. A restricted photograph or recording of a deceased  
 56 person may be viewed and copied by the surviving spouse of that

57 person, by a surviving parent of that person if there is no  
58 surviving spouse, or by an adult child of the person if there is  
59 no surviving spouse or parent.

60 2. A person whose extreme, severe, or acute injury is  
61 depicted in whole or in part in a restricted photograph or  
62 recording may view and copy such restricted photograph or  
63 recording.

64 (b) Any person authorized to obtain records under this  
65 subsection may designate in writing an agent to obtain such  
66 records on his or her behalf.

67 (c) Persons authorized under this subsection to obtain  
68 such records shall be provided access thereto unless such  
69 records are otherwise exempt from s. 119.07(1) and s. 24(a),  
70 Art. I of the State Constitution.

71 (3) A local or county governmental entity, or a state or  
72 federal agency, in furtherance of its official duties and  
73 pursuant to a written request to the law enforcement agency in  
74 possession of such records, may view or copy a restricted  
75 photograph or recording; however, unless otherwise required in  
76 the performance of the entity's or agency's duties, the identity  
77 of the deceased or injured person shall retain its confidential  
78 and exempt status.

79 (4) Any viewing, copying, or other handling of a  
80 restricted photograph or recording must be under the direct  
81 supervision of the custodian of the record or his or her  
82 designee. The custodian or his or her designee may not permit  
83 any person, other than a person so authorized under subsection  
84 (2) or subsection (3), to view or copy a restricted photograph

85 or recording unless required to do so by court order under  
86 subsection (5).

87 (5) (a) A court, upon a showing of good cause, may issue an  
88 order as provided in this subsection authorizing any person to  
89 view or copy a restricted photograph or recording and may  
90 prescribe any restrictions or stipulations that the court deems  
91 appropriate.

92 (b) In determining good cause for purposes of paragraph  
93 (a), the court shall consider whether such disclosure is  
94 necessary for the public evaluation of governmental performance,  
95 the seriousness of the intrusion into the family's or injured  
96 person's right to privacy, whether such disclosure is the least  
97 intrusive means available to enable public evaluation of  
98 governmental performance, and the availability of similar  
99 information in other public records, regardless of form.

100 (c) A surviving spouse of a deceased person or an injured  
101 person appearing in a restricted photograph or recording shall  
102 be given reasonable notice of a petition filed with the court  
103 under this subsection to view or copy the restricted photograph  
104 or recording, a copy of such petition, and reasonable notice of  
105 the opportunity to be present and heard at any hearing on the  
106 matter. If there is no surviving spouse, then such notice must  
107 be given to the parents of the deceased, and if the deceased has  
108 no living parent, then to the adult children of the deceased.

109 (6) (a) Any custodian or a designee of a custodian of a  
110 restricted photograph or recording who willfully and knowingly  
111 violates a provision of this section commits a felony of the

112 third degree, punishable as provided in s. 775.082, s. 775.083,  
 113 or s. 775.084.

114 (b) Any person who willfully and knowingly violates a  
 115 court order issued pursuant to this section commits a felony of  
 116 the third degree, punishable as provided in s. 775.082, s.  
 117 775.083, or s. 775.084.

118 (7) A criminal, civil, or administrative proceeding is  
 119 exempt from the application of this section as to any  
 120 photographs or recordings, but unless such photographs or  
 121 recordings are otherwise exempt from s. 119.07(1) and s. 24(a),  
 122 Art. I of the State Constitution, the photographs or recordings  
 123 are subject to all other provisions of chapter 119. However,  
 124 this section does not prohibit a judge or other presiding  
 125 officer in a criminal, civil, or administrative proceeding, upon  
 126 good cause shown, from restricting or otherwise controlling the  
 127 disclosure of a restricted photograph or recording, or a similar  
 128 photograph or recording, in the manner prescribed in this  
 129 section.

130 (8) This section is subject to the Open Government Sunset  
 131 Review Act in accordance with s. 119.15 and shall stand repealed  
 132 on October 2, 2014, unless reviewed and saved from repeal  
 133 through reenactment by the Legislature.

134 Section 2. The Legislature finds that it is a public  
 135 necessity that investigative or crime scene photographs or video  
 136 recordings of a deceased person, a part of a deceased person, or  
 137 any part of a person's extreme, severe, or acute injuries be  
 138 confidential and exempt from disclosure. The Legislature finds  
 139 that such photographs or video recordings may depict or describe

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140 a deceased or suffering person in graphic and disturbing  
141 fashion. Such photographs or video recordings, if viewed,  
142 copied, or publicized, could result in trauma, sorrow,  
143 humiliation, or emotional injury to the individual depicted or  
144 his or her immediate family. If the individual is deceased, such  
145 dissemination could also cause injury to the memory of the  
146 deceased. The Legislature notes that the existence of the  
147 Internet and the proliferation of personal computers throughout  
148 the world encourages and promotes the wide dissemination of  
149 photographs and video recordings 24 hours a day and that  
150 widespread unauthorized dissemination of photographs and video  
151 recordings would subject a suffering individual and the  
152 immediate family of a deceased or suffering individual to  
153 continuous injury. The Legislature further notes that there  
154 continue to be other types of available information, such as  
155 police reports, that are less intrusive and injurious and that  
156 continue to provide for public oversight. The Legislature  
157 further finds that the exemption provided in this act should be  
158 given retroactive application because it is remedial in nature.

159       Section 3. This act shall apply to all photographs or  
160 video recordings subject to its terms regardless of whether they  
161 were created before, on, or after the effective date of this  
162 act.

163       Section 4. This act shall take effect on the same date  
164 that HB 275 or similar legislation takes effect, if such  
165 legislation is enacted in the same legislative session or an  
166 extension thereof and becomes law.