

1 A bill to be entitled
2 An act relating to public records; amending s.
3 406.135, F.S.; revising the definition of the term
4 "medical examiner"; providing that a legal guardian or
5 sibling shall have access, under certain
6 circumstances, to a photograph or video or audio
7 recording of an autopsy held by a medical examiner;
8 providing that a legal guardian or sibling shall be
9 given reasonable notice of, a copy of, and reasonable
10 notice of an opportunity to be present and heard at
11 any hearing on a petition to view or make a copy of
12 such photograph or recording under certain
13 circumstances; providing an exemption from public
14 records requirements for a specified time after a
15 medical examiner has completed an autopsy report;
16 providing for future legislative review and repeal of
17 the exemption; providing criminal penalties; providing
18 retroactive applicability; providing a statement of
19 public necessity; providing an effective date.

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

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23 Section 1. Subsections (1), (2), and (5) of section
24 406.135, Florida Statutes, are amended, present subsections (6)
25 through (8) of that section are renumbered as subsections (7)

26 | through (9), respectively, present subsections (6) and (8) are
 27 | amended, and a new subsection (6) is added to that section, to
 28 | read:

29 | 406.135 Autopsies; confidentiality of reports, related
 30 | written records, photographs, and video and audio recordings;
 31 | exemption.—

32 | (1) For the purpose of this section, the term "medical
 33 | examiner" means any district medical examiner, associate medical
 34 | examiner, or substitute medical examiner acting pursuant to this
 35 | chapter, as well as any employee, deputy, or agent of a medical
 36 | examiner or any other person who may obtain possession of an
 37 | autopsy report or a related written record that personally
 38 | identifies the deceased, or a photograph or audio or video
 39 | recording of an autopsy, in the course of assisting a medical
 40 | examiner in the performance of his or her official duties.

41 | (2) A photograph or video or audio recording of an autopsy
 42 | held by a medical examiner is confidential and exempt from s.
 43 | 119.07(1) and s. 24(a), Art. I of the State Constitution, except
 44 | that a surviving spouse may view and copy a photograph or video
 45 | recording or listen to or copy an audio recording of the
 46 | deceased spouse's autopsy. If there is no surviving spouse, ~~then~~
 47 | the surviving parents, legal guardians, or siblings shall have
 48 | access to such records. If there is no surviving spouse, ~~or~~
 49 | parent, legal guardian, or sibling, ~~then~~ an adult child or adult
 50 | children of the deceased shall have access to such records.

51 (5) A surviving spouse shall be given reasonable notice of
52 a petition filed with the court to view or copy a photograph or
53 video recording of an autopsy or a petition to listen to or copy
54 an audio recording, a copy of such petition, and reasonable
55 notice of the opportunity to be present and heard at any hearing
56 on the matter. If there is no surviving spouse, ~~then~~ such notice
57 must be given to the parents, legal guardians, or siblings of
58 the deceased, and if the deceased has no surviving living
59 parent, legal guardian, or sibling, ~~then~~ to an adult child or
60 the adult children of the deceased.

61 (6) (a) An autopsy report or a related written record that
62 personally identifies the deceased and that is held by a medical
63 examiner is confidential and exempt from s. 119.07(1) and s.
64 24(a), Art. I of the State Constitution for 10 days after the
65 medical examiner has completed the report, except that a
66 surviving spouse of the deceased may view and copy the records.
67 If there is no surviving spouse, the surviving parents, legal
68 guardians, or siblings of the deceased shall have access to such
69 records. If there is no surviving spouse, parent, legal
70 guardian, or sibling, an adult child or the adult children of
71 the deceased shall have access to such records.

72 (b) The exemption in paragraph (a) is subject to the Open
73 Government Sunset Review Act in accordance with s. 119.15 and
74 shall stand repealed on October 2, 2024, unless reviewed and
75 saved from repeal through reenactment by the Legislature.

76 (7) (a) ~~(6) (a)~~ Any custodian of an autopsy report or a
 77 related written record that personally identifies the deceased,
 78 or a photograph or video or audio recording of an autopsy, who
 79 willfully and knowingly violates this section commits a felony
 80 of the third degree, punishable as provided in s. 775.082, s.
 81 775.083, or s. 775.084.

82 (b) Any person who willfully and knowingly violates a
 83 court order issued pursuant to this section commits a felony of
 84 the third degree, punishable as provided in s. 775.082, s.
 85 775.083, or s. 775.084.

86 (9) ~~(8)~~ This exemption applies to records held before, on,
 87 or after the effective date of this act shall be given
 88 retroactive application.

89 Section 2. The Legislature finds that it is a public
 90 necessity that autopsy reports and related written records that
 91 personally identify the deceased be made confidential and exempt
 92 from the requirements of s. 119.07(1), Florida Statutes, and s.
 93 24(a), Article I of the State Constitution for 10 days after the
 94 medical examiner has completed the autopsy report. The
 95 Legislature finds that the family of the deceased may
 96 unexpectedly encounter new information obtained from an autopsy
 97 report or related written record regarding the death of a loved
 98 one which is published or conveyed by word of mouth, causing the
 99 family to experience trauma, sorrow, humiliation, or emotional
 100 injury. The Legislature finds that, although access delayed is

HB 1201

2019

101 access denied, the family of the deceased should be given a
102 reasonable time to be notified before any highly sensitive
103 autopsy report or related written record that personally
104 identifies the deceased is released to the public. The
105 Legislature further finds that the exemption provided in this
106 act should be given retroactive application because it is
107 remedial in nature.

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