

CS/HB 1513

2022

1 A bill to be entitled
2 An act relating to public records; providing a short
3 title; amending s. 406.135, F.S.; revising the
4 definition of the term "medical examiner"; defining
5 the term "minor"; creating an exemption from public
6 records requirements for autopsy reports of minors
7 whose deaths were related to acts of domestic
8 violence; providing an exception; providing additional
9 exceptions to the exemption; requiring that any
10 viewing, copying, or handling of such autopsy reports
11 be under the direct supervision of the custodian of
12 records or his or her designee; requiring that certain
13 surviving parents of a minor child whose death was
14 related to domestic violence be given notice of
15 petitions to view or copy the minor child's autopsy
16 report and of the opportunity to be present and heard
17 at the related hearings under certain circumstances;
18 providing penalties; providing for retroactive
19 application; providing for future legislative review
20 and repeal of the exemption; providing a statement of
21 public necessity; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. This act may be cited as the "Rex and Brody

26 Reinhart Act."

27 Section 2. Section 406.135, Florida Statutes, is amended
28 to read:

29 406.135 Autopsies; confidentiality of photographs and
30 video and audio recordings; confidentiality of reports of child
31 victims of domestic violence; exemption.-

32 (1) As used in ~~For the purpose of~~ this section, the term:

33 (a) "Medical examiner" means any district medical
34 examiner, associate medical examiner, or substitute medical
35 examiner acting pursuant to this chapter, as well as any
36 employee, deputy, or agent of a medical examiner or any other
37 person who may obtain possession of a report, photograph, or
38 audio or video recording of an autopsy in the course of
39 assisting a medical examiner in the performance of his or her
40 official duties.

41 (b) "Minor" means a person younger than 18 years of age
42 who has not had the disability of nonage removed pursuant to s.
43 743.01 or s. 743.015.

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

51 | there is no surviving spouse or parent, then an adult child
52 | shall have access to such records.

53 | (3) An autopsy report of a minor whose death was related
54 | to an act of domestic violence as defined in s. 741.28 held by a
55 | medical examiner is confidential and exempt from s. 119.07(1)
56 | and s. 24(a), Art. I of the State Constitution, except that a
57 | surviving parent of the deceased minor may view and copy the
58 | report if he or she is not the parent who committed the act of
59 | domestic violence which led to the minor's death.

60 | (4)(a) The deceased's surviving relative, with whom
61 | authority rests to obtain such records, may designate in writing
62 | an agent to obtain such records.

63 | (b) A local governmental entity, or a state or federal
64 | agency, in furtherance of its official duties, pursuant to a
65 | written request, may view or copy a photograph or video
66 | recording of an autopsy or an autopsy report of a minor or may
67 | listen to or copy an audio recording of an autopsy, and unless
68 | otherwise required in the performance of official ~~their~~ duties,
69 | the identity of the deceased shall remain confidential and
70 | exempt.

71 | (c) The custodian of the record, or his or her designee,
72 | may not permit any other person, except an agent designated in
73 | writing by the deceased's surviving relative with whom authority
74 | rests to obtain such records, to view or copy such photograph,
75 | ~~or~~ video recording, or autopsy report of a minor or listen to or

76 | copy an audio recording without a court order.

77 | (5) (a) ~~(4) (a)~~ The court, upon a showing of good cause, may
 78 | issue an order authorizing any person to view or copy a
 79 | photograph or video recording of an autopsy or an autopsy report
 80 | of a minor or to listen to or copy an audio recording of an
 81 | autopsy and may prescribe any restrictions or stipulations that
 82 | the court deems appropriate.

83 | (b) In determining good cause, the court shall consider
 84 | whether such disclosure is necessary for the public evaluation
 85 | of governmental performance; the seriousness of the intrusion
 86 | into the family's right to privacy and whether such disclosure
 87 | is the least intrusive means available; and the availability of
 88 | similar information in other public records, regardless of form.

89 | (c) In all cases, the viewing, copying, listening to, or
 90 | other handling of a photograph or video or audio recording of an
 91 | autopsy or an autopsy report of a minor must be under the direct
 92 | supervision of the custodian of the record or his or her
 93 | designee.

94 | (6) (5) A surviving spouse must ~~shall~~ be given reasonable
 95 | notice of a petition filed with the court to view or copy a
 96 | photograph or video recording of an autopsy or a petition to
 97 | listen to or copy an audio recording, a copy of such petition,
 98 | and reasonable notice of the opportunity to be present and heard
 99 | at any hearing on the matter. If there is no surviving spouse,
 100 | then such notice must be given to the parents of the deceased,

101 and if the deceased has no living parent, then to the adult
 102 children of the deceased.

103 (7) For a report of an autopsy of a minor whose death was
 104 related to an act of domestic violence as defined in s. 741.28,
 105 any surviving parent who did not commit the act of domestic
 106 violence which led to the minor's death must be given reasonable
 107 notice of a petition filed with the court to view or copy the
 108 report, a copy of such petition, and reasonable notice of the
 109 opportunity to be present and heard at any hearing on the
 110 matter.

111 (8) (a) (6) (a) Any custodian of a photograph or video or
 112 audio recording of an autopsy or an autopsy report of a minor
 113 who willfully and knowingly violates this section commits a
 114 felony of the third degree, punishable as provided in s.
 115 775.082, s. 775.083, or s. 775.084.

116 (b) Any person who willfully and knowingly violates a
 117 court order issued pursuant to this section commits a felony of
 118 the third degree, punishable as provided in s. 775.082, s.
 119 775.083, or s. 775.084.

120 (9) (7) A criminal or administrative proceeding is exempt
 121 from this section, ~~but unless otherwise exempted,~~ is subject to
 122 all other provisions of chapter 119 unless otherwise exempted.
 123 ~~provided however that~~ This section does not prohibit a court in
 124 a criminal or administrative proceeding upon good cause shown
 125 from restricting or otherwise controlling the disclosure of an

126 autopsy, crime scene, or similar report, photograph, or video or
127 audio recordings in the manner prescribed herein.

128 ~~(10)-(8)~~ The exemptions in this section ~~This exemption~~
129 shall be given retroactive application.

130 (11) 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, 2027, unless reviewed and saved from repeal
133 through reenactment by the Legislature.

134 Section 3. The Legislature finds that it is a public
135 necessity that autopsy reports for minor children whose deaths
136 were related to acts of domestic violence be made confidential
137 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
138 Article I of the State Constitution. The Legislature finds that
139 autopsy reports describe the deceased in graphic and often
140 disturbing fashion and that autopsy reports for minor children
141 who were victims of domestic violence may describe the deceased
142 nude, bruised, bloodied, broken, with bullet or other wounds,
143 cut open, dismembered, or decapitated. As such, these reports
144 often contain highly sensitive descriptions of the deceased
145 which, if heard, viewed, copied, or publicized, could result in
146 trauma, sorrow, humiliation, or emotional injury to the
147 immediate family of the deceased and the deceased's minor
148 friends, as well as injury to the memory of the deceased. The
149 Legislature recognizes that the existence of the Internet and
150 the proliferation of websites throughout the world encourages

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151 and promotes the wide dissemination of reports and publications
152 24 hours a day and that widespread unauthorized dissemination of
153 autopsy reports for minor children whose deaths were related to
154 acts of domestic violence would subject the immediate family and
155 the minor friends of the deceased to continuous injury. The
156 Legislature further finds that the exemption provided in this
157 act should be given retroactive application because it is
158 remedial in nature.

159 Section 4. This act shall take effect upon becoming a law.