

By Senator Perry

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

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

24
25 Section 1. Section 406.135, Florida Statutes, is amended to
26 read:

27 406.135 Autopsies; confidentiality of photographs and video
28 and audio recordings; confidentiality of reports of child
29 victims of domestic violence; exemption.-

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

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

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

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

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

(4) (a) The deceased's surviving relative, with whom authority rests to obtain such records, may designate in writing

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59 an agent to obtain such records.

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

68 (c) The custodian of the record, or his or her designee,
69 may not permit any other person, except an agent designated in
70 writing by the deceased's surviving relative with whom authority
71 rests to obtain such records, to view or copy such photograph,
72 ~~or~~ video recording, or autopsy report of a minor or listen to or
73 copy an audio recording without a court order.

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

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

86 (c) In all cases, the viewing, copying, listening to, or
87 other handling of a photograph or video or audio recording of an

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88 autopsy or an autopsy report of a minor must be under the direct
89 supervision of the custodian of the record or his or her
90 designee.

91 (6)~~(5)~~ A surviving spouse must ~~shall~~ be given reasonable
92 notice of a petition filed with the court to view or copy a
93 photograph or video recording of an autopsy or a petition to
94 listen to or copy an audio recording, a copy of such petition,
95 and reasonable notice of the opportunity to be present and heard
96 at any hearing on the matter. If there is no surviving spouse,
97 then such notice must be given to the parents of the deceased,
98 and if the deceased has no living parent, then to the adult
99 children of the deceased.

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

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

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

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117 (9)~~(7)~~ A criminal or administrative proceeding is exempt
118 from this section~~,~~ but ~~unless otherwise exempted,~~ is subject to
119 all other provisions of chapter 119 unless otherwise exempted.~~,~~
120 ~~provided however that~~ This section does not prohibit a court in
121 a criminal or administrative proceeding upon good cause shown
122 from restricting or otherwise controlling the disclosure of an
123 autopsy, crime scene, or similar report, photograph, or video or
124 audio recordings in the manner prescribed herein.

125 (10)~~(8)~~ The exemptions in this section ~~This exemption~~ shall
126 be given retroactive application.

127 (11) This section is subject to the Open Government Sunset
128 Review Act in accordance with s. 119.15 and shall stand repealed
129 on October 2, 2027, unless reviewed and saved from repeal
130 through reenactment by the Legislature.

131 Section 2. The Legislature finds that it is a public
132 necessity that autopsy reports for minor children whose deaths
133 were related to acts of domestic violence be made confidential
134 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
135 Article I of the State Constitution. The Legislature finds that
136 autopsy reports describe the deceased in graphic and often
137 disturbing fashion and that autopsy reports for minor children
138 who were victims of domestic violence may describe the deceased
139 nude, bruised, bloodied, broken, with bullet or other wounds,
140 cut open, dismembered, or decapitated. As such, these reports
141 often contain highly sensitive descriptions of the deceased
142 which, if heard, viewed, copied, or publicized, could result in
143 trauma, sorrow, humiliation, or emotional injury to the
144 immediate family of the deceased and the deceased's minor
145 friends, as well as injury to the memory of the deceased. The

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146 Legislature recognizes that the existence of the Internet and
147 the proliferation of websites throughout the world encourages
148 and promotes the wide dissemination of reports and publications
149 24 hours a day and that widespread unauthorized dissemination of
150 autopsy reports for minor children whose deaths were related to
151 acts of domestic violence would subject the immediate family and
152 the minor friends of the deceased to continuous injury. The
153 Legislature further finds that the exemption provided in this
154 act should be given retroactive application because it is
155 remedial in nature.

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