

By the Committee on Children, Families, and Elder Affairs; and  
Senators Perry and Book

586-02299-22

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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; providing 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 to  
28 read:

29       406.135 Autopsies; confidentiality of photographs and video

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

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

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

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

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

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

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

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

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

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

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

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

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

115 (b) Any person who willfully and knowingly violates a court  
116 order issued pursuant to this section commits a felony of the

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117 third degree, punishable as provided in s. 775.082, s. 775.083,  
118 or s. 775.084.

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

127 (10)~~(8)~~ The exemptions in this section ~~This exemption~~ shall  
128 be given retroactive application.

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

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

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

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