

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

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

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

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

28 406.135 Autopsies; confidentiality of photographs and
 29 video and audio recordings; confidentiality of reports of minor
 30 victims of domestic violence; exemption.—

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

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

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

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

51 an adult child shall have access to such records.

52 (b) An autopsy report of a minor whose death was related
53 to 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 autopsy report if the surviving parent did not commit the act of
58 domestic violence which led to the minor's death.

59 (3)(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 minor's autopsy report or a
65 photograph or video recording of an autopsy, or may listen to or
66 copy an audio recording of an autopsy, and unless otherwise
67 required in the performance of official ~~their~~ duties, the
68 identity of the deceased shall remain confidential and exempt.

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

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

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

93 (5) (a) 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 there is ~~the deceased has~~ no living parent, then to the

101 adult children of the deceased.

102 (b) For an autopsy report 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 autopsy report, a copy of such petition, and reasonable notice
 108 of the opportunity to be present and heard at any hearing on the
 109 matter.

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

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

119 (7) A criminal or administrative proceeding is exempt from
 120 this section, ~~but unless otherwise exempted,~~ is subject to all
 121 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 recording ~~recordings~~ in the manner prescribed herein.

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

129 (9) 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, 2028, 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 of minors whose deaths were
135 related to acts of domestic violence be made confidential and
136 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 a graphic and often
139 disturbing fashion and that autopsy reports of minors whose
140 deaths were related to acts of domestic violence may describe
141 the deceased nude, bruised, bloodied, broken, with bullet or
142 other wounds, cut open, dismembered, or decapitated. As such,
143 these reports often contain highly sensitive descriptions of the
144 deceased which, if heard, viewed, copied, or publicized, could
145 result in trauma, sorrow, humiliation, or emotional injury to
146 the immediate family and minor friends of the deceased, as well
147 as injury to the memory of the deceased. The Legislature
148 recognizes that the existence of the Internet and the
149 proliferation of websites throughout the world encourages and
150 promotes the wide dissemination of reports and publications 24

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

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