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LEGISLATIVE ACTION

Senate

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House

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Senator Perry moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (p) of subsection (2) of section
119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of
public records.—

(2) AGENCY INVESTIGATIONS.—

(p)1. As used in this paragraph, the term:

a. "Killing of a law enforcement officer who was acting in



12 accordance with his or her official duties” means all acts or
13 events that cause or otherwise relate to the death of a law
14 enforcement officer who was acting in accordance with his or her
15 official duties, including any related acts or events
16 immediately preceding or subsequent to the acts or events that
17 were the proximate cause of death.

18 b. “Killing of a minor” means all acts or events that cause
19 or otherwise relate to the death of a victim who has not yet
20 reached the age of 18 at the time of the death, including any
21 related acts or events immediately preceding or subsequent to
22 the acts or events that were the proximate cause of the death of
23 a victim under the age of 18, events that depict a victim under
24 the age of 18 being killed, or events that depict the body of a
25 victim under the age of 18 who has been killed.

26 c. “Killing of a victim of mass violence” means events that
27 depict either a victim being killed or the body of a victim
28 killed in an incident in which three or more persons, not
29 including the perpetrator, are killed by the perpetrator of an
30 intentional act of violence.

31 2.a. A photograph or video or audio recording that depicts
32 or records the killing of a law enforcement officer who was
33 acting in accordance with his or her official duties or the
34 killing of a victim of mass violence is confidential and exempt
35 from s. 119.07(1) and s. 24(a), Art. I of the State
36 Constitution, except that a surviving spouse of the decedent may
37 view and copy any such photograph or video recording or listen
38 to or copy any such audio recording. If there is no surviving
39 spouse, the surviving parents shall have access to such records.
40 If there is no surviving spouse or parent, the adult children



550788

41 shall have access to such records. Nothing in this sub-
42 subparagraph ~~paragraph~~ precludes a surviving spouse, parent, or
43 adult child of the victim from sharing or publicly releasing
44 such photograph or video or audio recording.

45 b. A photograph or video or audio recording that depicts or
46 records the killing of a minor is confidential and exempt from
47 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
48 except that a surviving parent of the deceased minor may view
49 and copy any such photograph or video recording or listen to or
50 copy any such audio recording. Nothing in this sub-subparagraph
51 precludes a surviving parent of the victim from sharing or
52 publicly releasing such photograph or video or audio recording.

53 3.a. The deceased's surviving relative, with whom authority
54 rests to obtain such records, may designate in writing an agent
55 to obtain such records.

56 b. Notwithstanding subparagraph 2., a local governmental
57 entity, or a state or federal agency, in furtherance of its
58 official duties, pursuant to a written request, may view or copy
59 a photograph or video recording or may listen to or copy an
60 audio recording of the killing of a law enforcement officer who
61 was acting in accordance with his or her official duties, ~~or~~ the
62 killing of a victim of mass violence, or the killing of a minor,
63 and, unless otherwise required in the performance of its duties,
64 the identity of the deceased shall remain confidential and
65 exempt.

66 c. The custodian of the record, or his or her designee, may
67 not permit any other person to view or copy such photograph or
68 video recording or listen to or copy such audio recording
69 without a court order.



70 4.a. The court, upon a showing of good cause, may issue an
71 order authorizing any person to view or copy a photograph or
72 video recording that depicts or records the killing of a law
73 enforcement officer who was acting in accordance with his or her
74 official duties, ~~or~~ the killing of a victim of mass violence, or
75 the killing of a minor, or to listen to or copy an audio
76 recording that depicts or records the killing of a law
77 enforcement officer who was acting in accordance with his or her
78 official duties, ~~or~~ the killing of a victim of mass violence, or
79 the killing of a minor, and may prescribe any restrictions or
80 stipulations that the court deems appropriate.

81 b. In determining good cause, the court shall consider:

82 (I) Whether such disclosure is necessary for the public
83 evaluation of governmental performance;

84 (II) The seriousness of the intrusion into the family's
85 right to privacy and whether such disclosure is the least
86 intrusive means available; and

87 (III) The availability of similar information in other
88 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 that
91 depicts or records the killing of a law enforcement officer who
92 was acting in accordance with his or her official duties, ~~or~~ the
93 killing of a victim of mass violence, or the killing of a minor
94 must be under the direct supervision of the custodian of the
95 record or his or her designee.

96 5.a. A surviving spouse shall be given reasonable notice of
97 a petition filed with the court to view or copy a photograph or
98 video recording that depicts or records the killing of a law



550788

99 enforcement officer who was acting in accordance with his or her
100 official duties or the killing of a victim of mass violence, or
101 to listen to or copy any such audio recording, a copy of such
102 petition, and reasonable notice of the opportunity to be present
103 and heard at any hearing on the matter. If there is no surviving
104 spouse, such notice must be given to the parents of the deceased
105 and, if there is ~~the deceased has~~ no surviving parent, to the
106 adult children of the deceased.

107 b. A surviving parent must be given reasonable notice of a
108 petition filed with the court to view or copy a photograph or
109 video recording that depicts or records the killing of a minor
110 or to listen to or copy any such audio recording; a copy of such
111 petition; and reasonable notice of the opportunity to be present
112 and heard at any hearing on the matter.

113 6.a. Any custodian of a photograph or video or audio
114 recording that depicts or records the killing of a law
115 enforcement officer who was acting in accordance with his or her
116 official duties, or the killing of a victim of mass violence, or
117 the killing of a minor who willfully and knowingly violates this
118 paragraph commits a felony of the third degree, punishable as
119 provided in s. 775.082, s. 775.083, or s. 775.084.

120 b. Any person who willfully and knowingly violates a court
121 order issued pursuant to this paragraph commits a felony of the
122 third degree, punishable as provided in s. 775.082, s. 775.083,
123 or s. 775.084.

124 c. A criminal or administrative proceeding is exempt from
125 this paragraph but, unless otherwise exempted, is subject to all
126 other provisions of chapter 119; however, this paragraph does
127 not prohibit a court in a criminal or administrative proceeding



550788

128 upon good cause shown from restricting or otherwise controlling
129 the disclosure of a killing, crime scene, or similar photograph
130 or video or audio recording in the manner prescribed in this
131 paragraph.

132 7. The exemption in this paragraph shall be given
133 retroactive application and shall apply to all photographs or
134 video or audio recordings that depict or record the killing of a
135 law enforcement officer who was acting in accordance with his or
136 her official duties, ~~or~~ the killing of a victim of mass
137 violence, or the killing of a minor, regardless of whether the
138 killing of the person occurred before, on, or after May 23,
139 2019. However, nothing in this paragraph is intended to, nor may
140 be construed to, overturn or abrogate or alter any existing
141 orders duly entered into by any court of this state, as of the
142 effective date of this act, which restrict or limit access to
143 any photographs or video or audio recordings that depict or
144 record the killing of a law enforcement officer who was acting
145 in accordance with his or her official duties, ~~or~~ the killing of
146 a victim of mass violence, or the killing of a minor.

147 8. This paragraph applies only to such photographs and
148 video and audio recordings held by an agency.

149 9. This paragraph is subject to the Open Government Sunset
150 Review Act in accordance with s. 119.15 and shall stand repealed
151 on October 2, 2028 ~~2024~~, unless reviewed and saved from repeal
152 through reenactment by the Legislature.

153 Section 2. (1) The Legislature finds that it is a public
154 necessity that photographs and video and audio recordings that
155 depict or record the killing of a minor be made confidential and
156 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),



550788

157 Article I of the State Constitution and that such exemption be
158 applied retroactively. The Legislature finds that photographs
159 and video and audio recordings that depict or record the killing
160 of a minor render a graphic and often disturbing visual or aural
161 representation of the deceased. Such photographs and video and
162 audio recordings provide a view of the deceased in the final
163 moments of life, in which they are often bruised, bloodied,
164 broken, with bullet wounds or other wounds, lacerated,
165 dismembered, or decapitated. As such, photographs and video and
166 audio recordings that depict or record the killing of a minor
167 are highly sensitive representations of the deceased which, if
168 heard, viewed, copied, or publicized, could result in trauma,
169 sorrow, humiliation, or emotional injury to the immediate family
170 of the deceased and detract from the memory of the deceased. The
171 Legislature recognizes that the existence of the Internet and
172 the proliferation of personal computers and cellular telephones
173 throughout the world encourages and promotes the wide
174 dissemination of such photographs and video and audio recordings
175 24 hours a day and that widespread unauthorized dissemination of
176 such photographs and video and audio recordings would subject
177 the immediate family of the deceased to continuous injury.

178 (2) In addition to the emotional and mental injury that
179 these photographs and video and audio recordings may cause
180 family members, the Legislature is also concerned that
181 dissemination of photographs and video and audio recordings that
182 depict or record the killing of a minor is harmful to the
183 public. The Legislature is concerned that the release of these
184 photographs and video and audio recordings may educe violent
185 acts by persons who have a mental illness or who are morally



550788

186 corrupt.

187 Section 3. Sections 4 and 5 of this act may be cited as the
188 "Rex and Brody Act."

189 Section 4. Section 406.135, Florida Statutes, is amended to
190 read:

191 406.135 Autopsies; confidentiality of photographs and video
192 and audio recordings; confidentiality of reports of minor
193 victims of domestic violence; exemption.-

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

195 (a) "Domestic violence" has the same meaning as in s.
196 741.28.

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

204 (c) "Minor" means a person younger than 18 years of age who
205 has not had the disability of nonage removed pursuant to s.
206 743.01 or s. 743.015.

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



215 an adult child shall have access to such records.

216 (b) An autopsy report of a minor whose death was related to
217 an act of domestic violence held by a medical examiner is
218 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
219 of the State Constitution, except that a surviving parent of the
220 deceased minor may view and copy the autopsy report if the
221 surviving parent did not commit the act of domestic violence
222 which led to the minor's death.

223 (3) (a) The deceased's surviving relative, with whom
224 authority rests to obtain such records, may designate in writing
225 an agent to obtain such records.

226 (b) Notwithstanding subsection (2), a local governmental
227 entity, or a state or federal agency, in furtherance of its
228 official duties, pursuant to a written request, may:

229 1. View or copy a photograph or video recording or may
230 listen to or copy an audio recording of an autopsy; and

231 2. View or copy an autopsy report of a minor whose death
232 was related to an act of domestic violence.

233
234 Unless otherwise required in the performance of official ~~their~~
235 duties, the identity of the deceased shall remain confidential
236 and exempt.

237 (c) The custodian of the record, or his or her designee,
238 may not permit any other person, except an agent designated in
239 writing by the deceased's surviving relative with whom authority
240 rests to obtain such records, to view or copy an autopsy report
241 of a minor whose death was related to an act of domestic
242 violence or a ~~such~~ photograph or video recording of an autopsy
243 or listen to or copy an audio recording of an autopsy without a



550788

244 court order.

245 (4) (a) The court, upon a showing of good cause, may issue
246 an order authorizing any person to view or copy an autopsy
247 report of a minor whose death was related to an act of domestic
248 violence or a photograph or video recording of an autopsy or to
249 listen to or copy an audio recording of an autopsy and may
250 prescribe any restrictions or stipulations that the court deems
251 appropriate.

252 (b) In determining good cause, the court shall consider
253 whether such disclosure is necessary for the public evaluation
254 of governmental performance; the seriousness of the intrusion
255 into the family's right to privacy and whether such disclosure
256 is the least intrusive means available; and the availability of
257 similar information in other public records, regardless of form.

258 (c) In all cases, the viewing, copying, listening to, or
259 other handling of an autopsy report of a minor whose death was
260 related to an act of domestic violence or a photograph or video
261 or audio recording of an autopsy must be under the direct
262 supervision of the custodian of the record or his or her
263 designee.

264 (5) (a) A surviving spouse must ~~shall~~ be given reasonable
265 notice of a petition filed with the court to view or copy a
266 photograph or video recording of an autopsy or a petition to
267 listen to or copy an audio recording, a copy of such petition,
268 and reasonable notice of the opportunity to be present and heard
269 at any hearing on the matter. If there is no surviving spouse,
270 then such notice must be given to the parents of the deceased,
271 and if there is ~~the deceased has~~ no living parent, then to the
272 adult children of the deceased.



550788

273 (b) For an autopsy report of a minor whose death was
274 related to an act of domestic violence, any surviving parent who
275 did not commit the act of domestic violence which led to the
276 minor's death must be given reasonable notice of a petition
277 filed with the court to view or copy the autopsy report, a copy
278 of such petition, and reasonable notice of the opportunity to be
279 present and heard at any hearing on the matter.

280 (6) (a) Any custodian of an autopsy report of a minor whose
281 death was related to an act of domestic violence or a photograph
282 or video or audio recording of an autopsy who willfully and
283 knowingly violates this section commits a felony of the third
284 degree, punishable as provided in s. 775.082, s. 775.083, or s.
285 775.084.

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

290 (7) A criminal or administrative proceeding is exempt from
291 this section, ~~but unless otherwise exempted,~~ is subject to all
292 other provisions of chapter 119 unless otherwise exempted.
293 ~~provided however that~~ This section does not prohibit a court in
294 a criminal or administrative proceeding upon good cause shown
295 from restricting or otherwise controlling the disclosure of an
296 autopsy, crime scene, or similar report, photograph, or video or
297 audio recording recordings in the manner prescribed herein.

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

300 (9) This section is subject to the Open Government Sunset
301 Review Act in accordance with s. 119.15 and shall stand repealed



302 on October 2, 2028, unless reviewed and saved from repeal
303 through reenactment by the Legislature.

304 Section 5. The Legislature finds that it is a public
305 necessity that autopsy reports of minors whose deaths were
306 related to acts of domestic violence be made confidential and
307 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
308 Article I of the State Constitution. The Legislature finds that
309 autopsy reports describe the deceased in a graphic and often
310 disturbing fashion and that autopsy reports of minors whose
311 deaths were related to acts of domestic violence may describe
312 the deceased nude, bruised, bloodied, broken, with bullet wounds
313 or other wounds, lacerated, dismembered, or decapitated. As
314 such, these reports often contain highly sensitive descriptions
315 of the deceased which, if heard, viewed, copied, or publicized,
316 could result in trauma, sorrow, humiliation, or emotional injury
317 to the immediate family and minor friends of the deceased, as
318 well as injury to the memory of the deceased. The Legislature
319 recognizes that the existence of the Internet and the
320 proliferation of websites throughout the world encourages and
321 promotes the wide dissemination of reports and publications 24
322 hours a day and that widespread unauthorized dissemination of
323 autopsy reports of minors whose deaths were related to acts of
324 domestic violence would subject the immediate family and minor
325 friends of the deceased to continuous injury. The Legislature
326 further finds that the exemption provided in this act should be
327 given retroactive application because it is remedial in nature.

328 Section 6. This act shall take effect upon becoming a law.

329
330 ===== T I T L E A M E N D M E N T =====



550788

331 And the title is amended as follows:

332 Delete everything before the enacting clause
333 and insert:

334 A bill to be entitled

335 An act relating to public records; amending s.
336 119.071, F.S.; defining the term "killing of a minor";
337 creating an exemption from public records requirements
338 for a photograph or video or audio recording of the
339 killing of a minor, with exceptions; providing
340 construction; requiring that any viewing, copying,
341 listening to, or other handling of such photograph or
342 video or audio recording be under the direct
343 supervision of the custodian of the record or his or
344 her designee; requiring that surviving parents of a
345 minor who was killed be given reasonable notice of any
346 petition to view or copy a photograph or video
347 recording, or to listen to or copy any such audio
348 recording, of the killing of the minor; a copy of the
349 petition; and the opportunity to be present and heard
350 at related hearings; providing penalties; providing
351 construction; providing for retroactive application;
352 providing for future legislative review and repeal of
353 the exemption; providing statements of public
354 necessity; providing a short title; amending s.
355 406.135, F.S.; defining the terms "domestic violence"
356 and "minor"; revising the definition of the term
357 "medical examiner"; creating an exemption from public
358 records requirements for autopsy reports of minors
359 whose deaths were related to acts of domestic



550788

360 violence; providing exceptions; requiring that any
361 viewing, copying, listening to, or other handling of
362 such autopsy reports be under the direct supervision
363 of the custodian of the record or his or her designee;
364 requiring that certain surviving parents of a minor
365 whose death was related to an act of domestic violence
366 be given reasonable notice of any petition to view or
367 copy the minor's autopsy report, a copy of the
368 petition, and the opportunity to be present and heard
369 at related hearings; providing penalties; providing
370 construction; providing for retroactive application;
371 providing for future legislative review and repeal of
372 the exemption; providing a statement of public
373 necessity; providing an effective date.