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1                   A bill to be entitled  
2           An act relating to public records; amending s.  
3           119.071, F.S.; defining the term "killing of a minor";  
4           creating an exemption from public records requirements  
5           for a photograph or video or audio recording of the  
6           killing of a minor, with exceptions; providing  
7           construction; requiring that any viewing, copying,  
8           listening to, or other handling of such photograph or  
9           video or audio recording be under the direct  
10          supervision of the custodian of the record or his or  
11          her designee; requiring that surviving parents of a  
12          minor who was killed be given reasonable notice of any  
13          petition to view or copy a photograph or video  
14          recording, or to listen to or copy any such audio  
15          recording, of the killing of the minor; a copy of the  
16          petition; and the opportunity to be present and heard  
17          at related hearings; providing penalties; providing  
18          construction; providing for retroactive application;  
19          providing for future legislative review and repeal of  
20          the exemption; providing statements of public  
21          necessity; providing a short title; amending s.  
22          406.135, F.S.; defining the terms "domestic violence"  
23          and "minor"; revising the definition of the term  
24          "medical examiner"; creating an exemption from public  
25          records requirements for autopsy reports of minors  
26          whose deaths were related to acts of domestic  
27          violence; providing exceptions; requiring that any  
28          viewing, copying, listening to, or other handling of  
29          such autopsy reports be under the direct supervision

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30 of the custodian of the record or his or her designee;  
31 requiring that certain surviving parents of a minor  
32 whose death was related to an act of domestic violence  
33 be given reasonable notice of any petition to view or  
34 copy the minor's autopsy report, a copy of the  
35 petition, and the opportunity to be present and heard  
36 at related hearings; providing penalties; providing  
37 construction; providing for retroactive application;  
38 providing for future legislative review and repeal of  
39 the exemption; providing a statement of public  
40 necessity; providing an effective date.

41  
42 Be It Enacted by the Legislature of the State of Florida:

43  
44 Section 1. Paragraph (p) of subsection (2) of section  
45 119.071, Florida Statutes, is amended to read:

46 119.071 General exemptions from inspection or copying of  
47 public records.—

48 (2) AGENCY INVESTIGATIONS.—

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

50 a. "Killing of a law enforcement officer who was acting in  
51 accordance with his or her official duties" means all acts or  
52 events that cause or otherwise relate to the death of a law  
53 enforcement officer who was acting in accordance with his or her  
54 official duties, including any related acts or events  
55 immediately preceding or subsequent to the acts or events that  
56 were the proximate cause of death.

57 b. "Killing of a minor" means all acts or events that cause  
58 or otherwise relate to the death of a victim who has not yet

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59 reached the age of 18 at the time of the death, including any  
60 related acts or events immediately preceding or subsequent to  
61 the acts or events that were the proximate cause of the death of  
62 a victim under the age of 18, events that depict a victim under  
63 the age of 18 being killed, or events that depict the body of a  
64 victim under the age of 18 who has been killed.

65 c. "Killing of a victim of mass violence" means events that  
66 depict either a victim being killed or the body of a victim  
67 killed in an incident in which three or more persons, not  
68 including the perpetrator, are killed by the perpetrator of an  
69 intentional act of violence.

70 2.a. A photograph or video or audio recording that depicts  
71 or records the killing of a law enforcement officer who was  
72 acting in accordance with his or her official duties or the  
73 killing of a victim of mass violence is confidential and exempt  
74 from s. 119.07(1) and s. 24(a), Art. I of the State  
75 Constitution, except that a surviving spouse of the decedent may  
76 view and copy any such photograph or video recording or listen  
77 to or copy any such audio recording. If there is no surviving  
78 spouse, the surviving parents shall have access to such records.  
79 If there is no surviving spouse or parent, the adult children  
80 shall have access to such records. Nothing in this sub-  
81 subparagraph ~~paragraph~~ precludes a surviving spouse, parent, or  
82 adult child of the victim from sharing or publicly releasing  
83 such photograph or video or audio recording.

84 b. A photograph or video or audio recording that depicts or  
85 records the killing of a minor is confidential and exempt from  
86 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
87 except that a surviving parent of the deceased minor may view

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88 and copy any such photograph or video recording or listen to or  
89 copy any such audio recording. Nothing in this sub-subparagraph  
90 precludes a surviving parent of the victim from sharing or  
91 publicly releasing such photograph or video or audio recording.

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

95 b. Notwithstanding subparagraph 2., a local governmental  
96 entity, or a state or federal agency, in furtherance of its  
97 official duties, pursuant to a written request, may view or copy  
98 a photograph or video recording or may listen to or copy an  
99 audio recording of the killing of a law enforcement officer who  
100 was acting in accordance with his or her official duties, ~~or~~ the  
101 killing of a victim of mass violence, or the killing of a minor,  
102 and, unless otherwise required in the performance of its duties,  
103 the identity of the deceased shall remain confidential and  
104 exempt.

105 c. The custodian of the record, or his or her designee, may  
106 not permit any other person to view or copy such photograph or  
107 video recording or listen to or copy such audio recording  
108 without a court order.

109 4.a. The court, upon a showing of good cause, may issue an  
110 order authorizing any person to view or copy a photograph or  
111 video recording that depicts or records the killing of a law  
112 enforcement officer who was acting in accordance with his or her  
113 official duties, ~~or~~ the killing of a victim of mass violence, or  
114 the killing of a minor, or to listen to or copy an audio  
115 recording that depicts or records the killing of a law  
116 enforcement officer who was acting in accordance with his or her

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117 official duties, ~~or~~ the killing of a victim of mass violence, or  
118 the killing of a minor, and may prescribe any restrictions or  
119 stipulations that the court deems appropriate.

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

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

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

126 (III) The availability of similar information in other  
127 public records, regardless of form.

128 c. In all cases, the viewing, copying, listening to, or  
129 other handling of a photograph or video or audio recording that  
130 depicts or records the killing of a law enforcement officer who  
131 was acting in accordance with his or her official duties, ~~or~~ the  
132 killing of a victim of mass violence, or the killing of a minor  
133 must be under the direct supervision of the custodian of the  
134 record or his or her designee.

135 5.a. A surviving spouse shall be given reasonable notice of  
136 a petition filed with the court to view or copy a photograph or  
137 video recording that depicts or records the killing of a law  
138 enforcement officer who was acting in accordance with his or her  
139 official duties or the killing of a victim of mass violence, or  
140 to listen to or copy any such audio recording, a copy of such  
141 petition, and reasonable notice of the opportunity to be present  
142 and heard at any hearing on the matter. If there is no surviving  
143 spouse, such notice must be given to the parents of the deceased  
144 and, if there is ~~the deceased has~~ no surviving parent, to the  
145 adult children of the deceased.

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146        b. A surviving parent must be given reasonable notice of a  
147 petition filed with the court to view or copy a photograph or  
148 video recording that depicts or records the killing of a minor  
149 or to listen to or copy any such audio recording; a copy of such  
150 petition; and reasonable notice of the opportunity to be present  
151 and heard at any hearing on the matter.

152        6.a. Any custodian of a photograph or video or audio  
153 recording that depicts or records the killing of a law  
154 enforcement officer who was acting in accordance with his or her  
155 official duties, ~~or~~ the killing of a victim of mass violence, or  
156 the killing of a minor who willfully and knowingly violates this  
157 paragraph commits a felony of the third degree, punishable as  
158 provided in s. 775.082, s. 775.083, or s. 775.084.

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

163        c. A criminal or administrative proceeding is exempt from  
164 this paragraph but, unless otherwise exempted, is subject to all  
165 other provisions of chapter 119; however, this paragraph does  
166 not prohibit a court in a criminal or administrative proceeding  
167 upon good cause shown from restricting or otherwise controlling  
168 the disclosure of a killing, crime scene, or similar photograph  
169 or video or audio recording in the manner prescribed in this  
170 paragraph.

171        7. The exemption in this paragraph shall be given  
172 retroactive application and shall apply to all photographs or  
173 video or audio recordings that depict or record the killing of a  
174 law enforcement officer who was acting in accordance with his or

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175 her official duties, ~~or~~ the killing of a victim of mass  
176 violence, or the killing of a minor, regardless of whether the  
177 killing of the person occurred before, on, or after May 23,  
178 2019. However, nothing in this paragraph is intended to, nor may  
179 be construed to, overturn or abrogate or alter any existing  
180 orders duly entered into by any court of this state, as of the  
181 effective date of this act, which restrict or limit access to  
182 any photographs or video or audio recordings that depict or  
183 record the killing of a law enforcement officer who was acting  
184 in accordance with his or her official duties, ~~or~~ the killing of  
185 a victim of mass violence, or the killing of a minor.

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

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

192 Section 2. (1) The Legislature finds that it is a public  
193 necessity that photographs and video and audio recordings that  
194 depict or record the killing of a minor be made confidential and  
195 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
196 Article I of the State Constitution and that such exemption be  
197 applied retroactively. The Legislature finds that photographs  
198 and video and audio recordings that depict or record the killing  
199 of a minor render a graphic and often disturbing visual or aural  
200 representation of the deceased. Such photographs and video and  
201 audio recordings provide a view of the deceased in the final  
202 moments of life, in which they are often bruised, bloodied,  
203 broken, with bullet wounds or other wounds, lacerated,

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204 dismembered, or decapitated. As such, photographs and video and  
205 audio recordings that depict or record the killing of a minor  
206 are highly sensitive representations of the deceased which, if  
207 heard, viewed, copied, or publicized, could result in trauma,  
208 sorrow, humiliation, or emotional injury to the immediate family  
209 of the deceased and detract from the memory of the deceased. The  
210 Legislature recognizes that the existence of the Internet and  
211 the proliferation of personal computers and cellular telephones  
212 throughout the world encourages and promotes the wide  
213 dissemination of such photographs and video and audio recordings  
214 24 hours a day and that widespread unauthorized dissemination of  
215 such photographs and video and audio recordings would subject  
216 the immediate family of the deceased to continuous injury.

217 (2) In addition to the emotional and mental injury that  
218 these photographs and video and audio recordings may cause  
219 family members, the Legislature is also concerned that  
220 dissemination of photographs and video and audio recordings that  
221 depict or record the killing of a minor is harmful to the  
222 public. The Legislature is concerned that the release of these  
223 photographs and video and audio recordings may educe violent  
224 acts by persons who have a mental illness or who are morally  
225 corrupt.

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

228 Section 4. Section 406.135, Florida Statutes, is amended to  
229 read:

230 406.135 Autopsies; confidentiality of photographs and video  
231 and audio recordings; confidentiality of reports of minor  
232 victims of domestic violence; exemption.-



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

234 (a) "Domestic violence" has the same meaning as in s.  
235 741.28.

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

243 (c) "Minor" means a person younger than 18 years of age who  
244 has not had the disability of nonage removed pursuant to s.  
245 743.01 or s. 743.015.

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

255 (b) An autopsy report of a minor whose death was related to  
256 an act of domestic violence held by a medical examiner is  
257 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
258 of the State Constitution, except that a surviving parent of the  
259 deceased minor may view and copy the autopsy report if the  
260 surviving parent did not commit the act of domestic violence  
261 which led to the minor's death.

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

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

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

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

272  
273 Unless otherwise required in the performance of official ~~their~~  
274 duties, the identity of the deceased shall remain confidential  
275 and exempt.

276 (c) The custodian of the record, or his or her designee,  
277 may not permit any other person, except an agent designated in  
278 writing by the deceased's surviving relative with whom authority  
279 rests to obtain such records, to view or copy an autopsy report  
280 of a minor whose death was related to an act of domestic  
281 violence or a ~~such~~ photograph or video recording of an autopsy  
282 or listen to or copy an audio recording of an autopsy without a  
283 court order.

284 (4) (a) The court, upon a showing of good cause, may issue  
285 an order authorizing any person to view or copy an autopsy  
286 report of a minor whose death was related to an act of domestic  
287 violence or a photograph or video recording of an autopsy or to  
288 listen to or copy an audio recording of an autopsy and may  
289 prescribe any restrictions or stipulations that the court deems  
290 appropriate.

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291 (b) In determining good cause, the court shall consider  
292 whether such disclosure is necessary for the public evaluation  
293 of governmental performance; the seriousness of the intrusion  
294 into the family's right to privacy and whether such disclosure  
295 is the least intrusive means available; and the availability of  
296 similar information in other public records, regardless of form.

297 (c) In all cases, the viewing, copying, listening to, or  
298 other handling of an autopsy report of a minor whose death was  
299 related to an act of domestic violence or a photograph or video  
300 or audio recording of an autopsy must be under the direct  
301 supervision of the custodian of the record or his or her  
302 designee.

303 (5) (a) A surviving spouse must ~~shall~~ be given reasonable  
304 notice of a petition filed with the court to view or copy a  
305 photograph or video recording of an autopsy or a petition to  
306 listen to or copy an audio recording, a copy of such petition,  
307 and reasonable notice of the opportunity to be present and heard  
308 at any hearing on the matter. If there is no surviving spouse,  
309 then such notice must be given to the parents of the deceased,  
310 and if there is ~~the deceased has~~ no living parent, then to the  
311 adult children of the deceased.

312 (b) For an autopsy report of a minor whose death was  
313 related to an act of domestic violence, any surviving parent who  
314 did not commit the act of domestic violence which led to the  
315 minor's death must be given reasonable notice of a petition  
316 filed with the court to view or copy the autopsy report, a copy  
317 of such petition, and reasonable notice of the opportunity to be  
318 present and heard at any hearing on the matter.

319 (6) (a) Any custodian of an autopsy report of a minor whose

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320 death was related to an act of domestic violence or a photograph  
321 or video or audio recording of an autopsy who willfully and  
322 knowingly violates this section commits a felony of the third  
323 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
324 775.084.

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

329 (7) A criminal or administrative proceeding is exempt from  
330 this section, ~~but unless otherwise exempted,~~ is subject to all  
331 other provisions of chapter 119 unless otherwise exempted.  
332 ~~provided however that~~ This section does not prohibit a court in  
333 a criminal or administrative proceeding upon good cause shown  
334 from restricting or otherwise controlling the disclosure of an  
335 autopsy, crime scene, or similar report, photograph, or video or  
336 audio recording recordings in the manner prescribed herein.

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

339 (9) This section is subject to the Open Government Sunset  
340 Review Act in accordance with s. 119.15 and shall stand repealed  
341 on October 2, 2028, unless reviewed and saved from repeal  
342 through reenactment by the Legislature.

343 Section 5. The Legislature finds that it is a public  
344 necessity that autopsy reports of minors whose deaths were  
345 related to acts of domestic violence be made confidential and  
346 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
347 Article I of the State Constitution. The Legislature finds that  
348 autopsy reports describe the deceased in a graphic and often

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349 disturbing fashion and that autopsy reports of minors whose  
350 deaths were related to acts of domestic violence may describe  
351 the deceased nude, bruised, bloodied, broken, with bullet wounds  
352 or other wounds, lacerated, dismembered, or decapitated. As  
353 such, these reports often contain highly sensitive descriptions  
354 of the deceased which, if heard, viewed, copied, or publicized,  
355 could result in trauma, sorrow, humiliation, or emotional injury  
356 to the immediate family and minor friends of the deceased, as  
357 well as injury to the memory of the deceased. The Legislature  
358 recognizes that the existence of the Internet and the  
359 proliferation of websites throughout the world encourages and  
360 promotes the wide dissemination of reports and publications 24  
361 hours a day and that widespread unauthorized dissemination of  
362 autopsy reports of minors whose deaths were related to acts of  
363 domestic violence would subject the immediate family and minor  
364 friends of the deceased to continuous injury. The Legislature  
365 further finds that the exemption provided in this act should be  
366 given retroactive application because it is remedial in nature.

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