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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/16/2024	.	
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The Committee on Governmental Oversight and Accountability
(Grall) recommended the following:

Senate Amendment (with title amendment)

Delete lines 153 - 329
and insert:

c. A surviving spouse shall be given reasonable notice of a
petition filed with the court to view or copy a photograph or
video recording that depicts or records the suicide of a person,
or to listen to or copy any such audio recording; a copy of such
petition; and reasonable notice of the opportunity to be present
and heard at any hearing on the matter. If there is no surviving



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11 spouse, such notice must be given to the parents of the deceased
12 and, if there is no surviving parent, to the adult children and
13 siblings of the deceased.

14 6.a. Any custodian of a photograph or video or audio
15 recording that depicts or records the killing of a law
16 enforcement officer who was acting in accordance with his or her
17 official duties, the killing of a victim of mass violence, ~~or~~
18 the killing of a minor, or the suicide of a person who willfully
19 and knowingly violates this paragraph commits a felony of the
20 third degree, punishable as provided in s. 775.082, s. 775.083,
21 or s. 775.084.

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

26 c. A criminal or administrative proceeding is exempt from
27 this paragraph but, unless otherwise exempted, is subject to all
28 other provisions of chapter 119; however, this paragraph does
29 not prohibit a court in a criminal or administrative proceeding
30 upon good cause shown from restricting or otherwise controlling
31 the disclosure of a killing, crime scene, or similar photograph
32 or video or audio recording in the manner prescribed in this
33 paragraph.

34 7. The exemptions ~~exemption~~ in this paragraph shall be
35 given retroactive application and shall apply to all photographs
36 or video or audio recordings that depict or record the killing
37 of a law enforcement officer who was acting in accordance with
38 his or her official duties, the killing of a victim of mass
39 violence, ~~or~~ the killing of a minor, or the suicide of a person,



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40 regardless of whether the killing or suicide of the person
41 occurred before, on, or after May 23, 2019. However, nothing in
42 this paragraph is intended to, nor may be construed to, overturn
43 or abrogate or alter any existing orders duly entered into by
44 any court of this state, as of the effective date of this act,
45 which restrict or limit access to any photographs or video or
46 audio recordings that depict or record the killing of a law
47 enforcement officer who was acting in accordance with his or her
48 official duties, the killing of a victim of mass violence, ~~or~~
49 the killing of a minor, or the suicide of a person.

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

52 9. This paragraph is subject to the Open Government Sunset
53 Review Act in accordance with s. 119.15 and shall stand repealed
54 on October 2, 2029 ~~2028~~, unless reviewed and saved from repeal
55 through reenactment by the Legislature.

56 Section 2. The Legislature finds that it is a public
57 necessity that photographs, video, and audio recordings that
58 depict or record the suicide of a person be made confidential
59 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
60 Article I of the State Constitution and that such exemption be
61 applied retroactively. The Legislature finds that photographs,
62 video, and audio recordings that depict or record the suicide of
63 a person render graphic and often disturbing visual or aural
64 representations of the deceased. Such photographs, video, and
65 audio recordings provide a view of the deceased in the final
66 moments of life, in which they are often experiencing severe
67 symptoms of depression or other mental illness, and may depict
68 graphic and gruesome self-inflicted wounds. As such,



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69 photographs, video, and audio recordings that depict or record
70 the suicide of a person are highly sensitive representations of
71 the deceased which, if heard, viewed, copied, or publicized,
72 could result in trauma, sorrow, humiliation, or emotional injury
73 to the immediate family of the deceased and detract from the
74 memory of the deceased. The Legislature recognizes that the
75 existence of the Internet and the proliferation of personal
76 computers and cellular telephones throughout the world
77 encourages and promotes the wide dissemination of such
78 photographs, video, and audio recordings and that widespread
79 unauthorized dissemination of such photographs, video, and audio
80 recordings would subject the immediate family of the deceased to
81 continuous injury. The Legislature further finds that such
82 photographs, video, and audio recordings that depict or record
83 the suicide of a person are harmful to the public. The release
84 of such photographs, video, and audio recordings may trigger
85 persons who have a mental illness or who are experiencing severe
86 depression to consider suicide. The Legislature further finds
87 that the exemption provided in this act should be given
88 retroactive application because it is remedial in nature.

89 Section 3. Section 406.135, Florida Statutes, is amended to
90 read:

91 406.135 Autopsies; confidentiality of photographs and video
92 and audio recordings; confidentiality of reports of minor
93 victims of domestic violence; exemption.—

94 (1) As used in this section, the term:

95 (a) "Domestic violence" has the same meaning as in s.
96 741.28.

97 (b) "Medical examiner" means any district medical examiner,



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98 associate medical examiner, or substitute medical examiner
99 acting pursuant to this chapter, as well as any employee,
100 deputy, or agent of a medical examiner or any other person who
101 may obtain possession of a report, photograph, or audio or video
102 recording of an autopsy in the course of assisting a medical
103 examiner in the performance of his or her official duties.

104 (c) "Minor" means a person younger than 18 years of age who
105 has not had the disability of nonage removed pursuant to s.
106 743.01 or s. 743.015.

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

116 (b) An autopsy report of a minor whose death was related to
117 an act of domestic violence held by a medical examiner is
118 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
119 of the State Constitution, except that a surviving parent of the
120 deceased minor may view and copy the autopsy report if the
121 surviving parent did not commit the act of domestic violence
122 which led to the minor's death.

123 (c) An autopsy report of a person whose manner of death was
124 suicide held by a medical examiner is confidential and exempt
125 from s. 119.07(1) and s. 24(a), Art. I of the State
126 Constitution, except that a surviving spouse of the deceased may



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127 view and copy the autopsy report. If there is no surviving
128 spouse, the surviving parents must have access to such records.
129 If there is no surviving spouse or parent, the adult children
130 and siblings must have access to such records.

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

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

137 1. View or copy a photograph or video recording or may
138 listen to or copy an audio recording of an autopsy; ~~and~~

139 2. View or copy an autopsy report of a minor whose death
140 was related to an act of domestic violence; and-

141 3. View or copy an autopsy report of a person whose manner
142 of death was determined by a medical examiner to have been by
143 suicide.

144
145 Unless otherwise required in the performance of official duties,
146 the identity of the deceased shall remain confidential and
147 exempt.

148 (c) The custodian of the record, or his or her designee,
149 may not permit any other person, except an agent designated in
150 writing by the deceased's surviving relative with whom authority
151 rests to obtain such records, to view or copy an autopsy report
152 of a person whose manner of death was determined by a medical
153 examiner to have been by suicide, an autopsy report of a minor
154 whose death was related to an act of domestic violence, or a
155 photograph or video recording of an autopsy or listen to or copy



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156 an audio recording of an autopsy without a court order.

157 (4) (a) The court, upon a showing of good cause, may issue
158 an order authorizing any person to view or copy an autopsy
159 report of a person whose manner of death was determined by a
160 medical examiner to have been by suicide, an autopsy report of a
161 minor whose death was related to an act of domestic violence, or
162 a photograph or video recording of an autopsy or to listen to or
163 copy an audio recording of an autopsy and may prescribe any
164 restrictions or stipulations that the court deems appropriate.

165 (b) In determining good cause, the court shall consider
166 whether such disclosure is necessary for the public evaluation
167 of governmental performance; the seriousness of the intrusion
168 into the family's right to privacy and whether such disclosure
169 is the least intrusive means available; and the availability of
170 similar information in other public records, regardless of form.

171 (c) In all cases, the viewing, copying, listening to, or
172 other handling of an autopsy report of a person whose manner of
173 death was determined by a medical examiner to have been by
174 suicide, an autopsy report of a minor whose death was related to
175 an act of domestic violence, or a photograph or video or audio
176 recording of an autopsy must be under the direct supervision of
177 the custodian of the record or his or her designee.

178 (5) (a) A surviving spouse must be given reasonable notice
179 of a petition filed with the court to view or copy a photograph
180 or video recording of an autopsy or a petition to listen to or
181 copy an audio recording, a copy of such petition, and reasonable
182 notice of the opportunity to be present and heard at any hearing
183 on the matter. If there is no surviving spouse, then such notice
184 must be given to the parents of the deceased, and if there is no



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185 living parent, then to the adult children of the deceased.

186 (b) For an autopsy report of a minor whose death was
187 related to an act of domestic violence, any surviving parent who
188 did not commit the act of domestic violence which led to the
189 minor's death must be given reasonable notice of a petition
190 filed with the court to view or copy the autopsy report, a copy
191 of such petition, and reasonable notice of the opportunity to be
192 present and heard at any hearing on the matter.

193 (c) A surviving spouse must be given reasonable notice of a
194 petition filed with the court to view or copy an autopsy report
195 of a person whose manner of death was by suicide, a copy of such
196 petition, and reasonable notice of the opportunity to be present
197 and heard at any hearing on the matter. If there is no surviving
198 spouse, then such notice must be given to the parents of the
199 deceased, and if there is no living parent, then to the adult
200 children and siblings of the deceased.

201
202 ===== T I T L E A M E N D M E N T =====

203 And the title is amended as follows:

204 Delete lines 11 - 21

205 and insert:

206 her designee; providing notice requirements; providing
207 criminal penalties; providing construction; providing
208 for retroactive application; providing for future
209 legislative review and repeal of the exemption;
210 providing a statement of public necessity; amending s.
211 406.135, F.S.; creating an exemption from public
212 records requirements for autopsy reports of suicide
213 victims; providing exceptions; requiring that any



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214 viewing, copying, listening to, or other handling of
215 such autopsy reports be under the direct supervision
216 of the custodian of the record or his or her designee;
217 providing notice requirements; providing criminal
218 penalties;