

1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; defining the term "suicide of a
4 person"; creating an exemption from public records
5 requirements for a photograph or video or audio
6 recording of the suicide of a person; providing
7 exceptions; 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; providing criminal penalties; providing
12 construction; providing for retroactive application;
13 providing for future legislative review and repeal of
14 the exemption; providing a statement of public
15 necessity; amending s. 406.135, F.S.; creating an
16 exemption from public records requirements for autopsy
17 reports of suicide victims; providing exceptions;
18 requiring that any viewing, copying, listening to, or
19 other handling of such autopsy reports be under the
20 direct supervision of the custodian of the record or
21 his or her designee; providing criminal penalties;
22 providing construction; providing for retroactive
23 application; providing for future legislative review
24 and repeal of the exemption; providing a statement of
25 public necessity; providing an effective date.

26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

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

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

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

c. "Killing of a victim of mass violence" means events

51 that depict either a victim being killed or the body of a victim
52 killed in an incident in which three or more persons, not
53 including the perpetrator, are killed by the perpetrator of an
54 intentional act of violence.

55 d. "Suicide of a person" means events that depict the
56 suicide of a person, the body of a person whose manner of death
57 was suicide, or any portion of such person's body.

58 2.a. A photograph or video or audio recording that depicts
59 or records the killing of a law enforcement officer who was
60 acting in accordance with his or her official duties or the
61 killing of a victim of mass violence is confidential and exempt
62 from s. 119.07(1) and s. 24(a), Art. I of the State
63 Constitution, except that a surviving spouse of the decedent may
64 view and copy any such photograph or video recording or listen
65 to or copy any such audio recording. If there is no surviving
66 spouse, the surviving parents must ~~shall~~ have access to such
67 records. If there is no surviving spouse or parent, the adult
68 children must ~~shall~~ have access to such records. Nothing in this
69 sub-subparagraph precludes a surviving spouse, parent, or adult
70 child of the victim from sharing or publicly releasing such
71 photograph or video or audio recording.

72 b. A photograph or video or audio recording that depicts
73 or records the killing of a minor 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 parent of the deceased

76 | minor may view and copy any such photograph or video recording
77 | or listen to or copy any such audio recording. Nothing in this
78 | sub-subparagraph precludes a surviving parent of the victim from
79 | sharing or publicly releasing such photograph or video or audio
80 | recording.

81 | c. A photograph or video or audio recording that depicts
82 | or records the suicide of a person is confidential and exempt
83 | from s. 119.07(1) and s. 24(a), Art. I of the State
84 | Constitution, except that a surviving spouse of the deceased may
85 | view and copy any such photograph or video recording or listen
86 | to or copy any such audio recording. If there is no surviving
87 | spouse, the surviving parents must have access to such records.
88 | If there is no surviving spouse or parent, the adult children
89 | and siblings must have access to such records. This section does
90 | not preclude a surviving spouse, parent, adult child, or sibling
91 | of the victim from sharing or publicly releasing such photograph
92 | or video or audio recording.

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

96 | b. Notwithstanding subparagraph 2., a local governmental
97 | entity, or a state or federal agency, in furtherance of its
98 | official duties, pursuant to a written request, may view or copy
99 | a photograph or video recording or may listen to or copy an
100 | audio recording of the killing of a law enforcement officer who

101 was acting in accordance with his or her official duties, the
 102 killing of a victim of mass violence, ~~or~~ the killing of a minor,
 103 or the suicide of a person, and, unless otherwise required in
 104 the performance of its duties, the identity of the deceased
 105 shall remain confidential and exempt.

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

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

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

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

125 (II) The seriousness of the intrusion into the family's

126 right to privacy and whether such disclosure is the least
127 intrusive means available; and

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

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

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

148 b. A surviving parent must be given reasonable notice of a
149 petition filed with the court to view or copy a photograph or
150 video recording that depicts or records the killing of a minor

151 or to listen to or copy any such audio recording; a copy of such
152 petition; and reasonable notice of the opportunity to be present
153 and heard at any hearing on the matter.

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

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

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

174 7. The exemptions ~~exemption~~ in this paragraph shall be
175 given retroactive application and shall apply to all photographs

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

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

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

196 Section 2. The Legislature finds that it is a public
 197 necessity that photographs and video and audio recordings that
 198 depict or record the suicide of a person be made confidential
 199 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
 200 Article I of the State Constitution and that such exemption be

201 applied retroactively. The Legislature finds that photographs
202 and video and audio recordings that depict or record the suicide
203 of a person render graphic and often disturbing visual or aural
204 representations of the deceased. Such photographs and video and
205 audio recordings provide a view of the deceased in the final
206 moments of life, in which they are often experiencing severe
207 symptoms of depression or other mental illness, and may depict
208 graphic and gruesome self-inflicted wounds. As such, photographs
209 and video and audio recordings that depict or record the suicide
210 of a person are highly sensitive representations of the deceased
211 which, if heard, viewed, copied, or publicized, could result in
212 trauma, sorrow, humiliation, or emotional injury to the
213 immediate family of the deceased and detract from the memory of
214 the deceased. The Legislature recognizes that the existence of
215 the Internet and the proliferation of personal computers and
216 cellular telephones throughout the world encourages and promotes
217 the wide dissemination of such photographs and video and audio
218 recordings and that widespread unauthorized dissemination of
219 such photographs and video and audio recordings would subject
220 the immediate family of the deceased to continuous injury. The
221 Legislature further finds that such photographs and video and
222 audio recordings that depict or record the suicide of a person
223 are harmful to the public. The release of such photographs and
224 video and audio recordings may trigger persons who have a mental
225 illness or who are experiencing severe depression to consider

226 suicide. The Legislature further finds that the exemption
227 provided in this act should be given retroactive application
228 because it is remedial in nature.

229 Section 3. Section 406.135, Florida Statutes, is amended
230 to read:

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

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

235 (a) "Domestic violence" has the same meaning as in s.
236 741.28.

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

245 (c) "Minor" means a person younger than 18 years of age
246 who has not had the disability of nonage removed pursuant to s.
247 743.01 or s. 743.015.

248 (2) (a) A photograph or video or audio recording of an
249 autopsy held by a medical examiner is confidential and exempt
250 from s. 119.07(1) and s. 24(a), Art. I of the State

251 Constitution, except that a surviving spouse may view and copy a
252 photograph or video recording or listen to or copy an audio
253 recording of the deceased spouse's autopsy. If there is no
254 surviving spouse, then the surviving parents shall have access
255 to such records. If there is no surviving spouse or parent, then
256 an adult child shall have access to such records.

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

264 (c) An autopsy report of a person whose manner of death
265 was suicide held by a medical examiner is confidential and
266 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
267 Constitution, except that a surviving spouse of the deceased may
268 view and copy the autopsy report. If there is no surviving
269 spouse, the surviving parents must have access to such records.
270 If there is no surviving spouse or parent, the adult children
271 and siblings must have access to such records.

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

275 (b) Notwithstanding subsection (2), a local governmental

HB 529

2024

276 entity, or a state or federal agency, in furtherance of its
277 official duties, pursuant to a written request, may:

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

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

282 3. View or copy an autopsy report of a person whose manner
283 of death was determined by a medical examiner to have been by
284 suicide.

285

286 Unless otherwise required in the performance of official duties,
287 the identity of the deceased shall remain confidential and
288 exempt.

289 (c) The custodian of the record, or his or her designee,
290 may not permit any other person, except an agent designated in
291 writing by the deceased's surviving relative with whom authority
292 rests to obtain such records, to view or copy an autopsy report
293 of a person whose manner of death was determined by a medical
294 examiner to have been by suicide, an autopsy report of a minor
295 whose death was related to an act of domestic violence, or a
296 photograph or video recording of an autopsy or listen to or copy
297 an audio recording of an autopsy without a court order.

298 (4) (a) The court, upon a showing of good cause, may issue
299 an order authorizing any person to view or copy an autopsy
300 report of a person whose manner of death was determined by a

301 medical examiner to have been by suicide, an autopsy report of a
302 minor whose death was related to an act of domestic violence, or
303 a photograph or video recording of an autopsy or to listen to or
304 copy an audio recording of an autopsy and may prescribe any
305 restrictions or stipulations that the court deems appropriate.

306 (b) In determining good cause, the court shall consider
307 whether such disclosure is necessary for the public evaluation
308 of governmental performance; the seriousness of the intrusion
309 into the family's right to privacy and whether such disclosure
310 is the least intrusive means available; and the availability of
311 similar information in other public records, regardless of form.

312 (c) In all cases, the viewing, copying, listening to, or
313 other handling of an autopsy report of a person whose manner of
314 death was determined by a medical examiner to have been by
315 suicide, an autopsy report of a minor whose death was related to
316 an act of domestic violence, or a photograph or video or audio
317 recording of an autopsy must be under the direct supervision of
318 the custodian of the record or his or her designee.

319 (5)(a) A surviving spouse must be given reasonable notice
320 of a petition filed with the court to view or copy a photograph
321 or video recording of an autopsy or a petition to listen to or
322 copy an audio recording, a copy of such petition, and reasonable
323 notice of the opportunity to be present and heard at any hearing
324 on the matter. If there is no surviving spouse, then such notice
325 must be given to the parents of the deceased, and if there is no

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

327 (b) For an autopsy report of a minor whose death was
328 related to an act of domestic violence, any surviving parent who
329 did not commit the act of domestic violence which led to the
330 minor's death must be given reasonable notice of a petition
331 filed with the court to view or copy the autopsy report, a copy
332 of such petition, and reasonable notice of the opportunity to be
333 present and heard at any hearing on the matter.

334 (6)(a) Any custodian of an autopsy report of a person
335 whose manner of death was determined by a medical examiner to
336 have been by suicide, an autopsy report of a minor whose death
337 was related to an act of domestic violence, or a photograph or
338 video or audio recording of an autopsy who willfully and
339 knowingly violates this section commits a felony of the third
340 degree, punishable as provided in s. 775.082, s. 775.083, or s.
341 775.084.

342 (b) Any person who willfully and knowingly violates a
343 court order issued pursuant to this section commits a felony of
344 the third degree, punishable as provided in s. 775.082, s.
345 775.083, or s. 775.084.

346 (7) A criminal or administrative proceeding is exempt from
347 this section but is subject to all other provisions of chapter
348 119 unless otherwise exempted. This section does not prohibit a
349 court in a criminal or administrative proceeding upon good cause
350 shown from restricting or otherwise controlling the disclosure

351 of an autopsy, crime scene, or similar report, photograph, or
 352 video or audio recording in the manner prescribed herein.

353 (8) The exemptions in this section shall be given
 354 retroactive application.

355 (9) This section is subject to the Open Government Sunset
 356 Review Act in accordance with s. 119.15 and shall stand repealed
 357 on October 2, 2029 ~~2028~~, unless reviewed and saved from repeal
 358 through reenactment by the Legislature.

359 Section 4. The Legislature finds that it is a public
 360 necessity that autopsy reports of a person whose manner of death
 361 was suicide which are held by a medical examiner be made
 362 confidential and exempt from s. 119.07(1), Florida Statutes, and
 363 s. 24(a), Article I of the State Constitution. The Legislature
 364 finds that autopsy reports describe the deceased in a graphic
 365 and often disturbing fashion and that autopsy reports of a
 366 person whose manner of death was suicide may describe the
 367 deceased with graphic and gruesome self-inflicted wounds. As
 368 such, these reports often contain highly sensitive descriptions
 369 of the deceased which if heard, viewed, copied, or publicized
 370 could result in trauma, sorrow, humiliation, or emotional injury
 371 to the immediate family of the deceased and detract from the
 372 memory of the deceased. The Legislature recognizes that the
 373 existence of the Internet and the proliferation of personal
 374 computers and cellular telephones throughout the world
 375 encourages and promotes the wide dissemination of such reports

HB 529

2024

376 | and that widespread unauthorized dissemination of such reports
377 | would subject the immediate family of the deceased to continuous
378 | injury. The Legislature further finds that the exemption
379 | provided in this act should be given retroactive application
380 | because it is remedial in nature.

381 | Section 5. This act shall take effect upon becoming a law.