

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Brown offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 406.136, Florida Statutes, is amended  
6 to read:

7 406.136 A photograph or video or audio recording that  
8 depicts or records the killing of a law enforcement officer who  
9 was acting in accordance with his or her official duties, the  
10 killing of a victim of a school shooting, or the killing of a  
11 victim of a mass shooting.-

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

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

20        (b) "Killing of a victim of a mass shooting" means all  
21 acts or events that cause or otherwise relate to the death of a  
22 person, not including the perpetrator, who is killed in an  
23 incident in which three or more people, not including the  
24 perpetrator, are killed by an intentional act of gun violence by  
25 another person.

26        (c) "Killing of a victim of a school shooting" means all  
27 acts or events that cause or otherwise relate to the death of a  
28 person, not including the perpetrator, who is killed in an  
29 incident at a school by an intentional act of gun violence by  
30 another person, including any related acts or events immediately  
31 preceding or subsequent to the acts or events that were the  
32 proximate cause of death.

33        (2) A photograph or video or audio recording that depicts  
34 or records the killing of a law enforcement officer who was  
35 acting in accordance with his or her official duties, the  
36 killing of a victim of a school shooting, or the killing of a  
37 victim of a mass shooting is confidential and exempt from s.

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38 119.07(1) and s. 24(a), Art. I of the State Constitution, except  
39 that a surviving spouse of the decedent may view and copy any  
40 such photograph or video recording or listen to or copy any such  
41 audio recording. If there is no surviving spouse, ~~then~~ the  
42 surviving parents shall have access to such records. If there is  
43 no surviving spouse or parent, the ~~then an adult children~~ child  
44 shall have access to such records.

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

48 (b) A local governmental entity, or a state or federal  
49 agency, in furtherance of its official duties, pursuant to a  
50 written request, may view or copy a photograph or video  
51 recording or may listen to or copy an audio recording of the  
52 killing of a law enforcement officer who was acting in  
53 accordance with his or her official duties, the killing of a  
54 victim of a school shooting, or the killing of a victim of a  
55 mass shooting, and, unless otherwise required in the performance  
56 of its ~~their~~ duties, the identity of the deceased shall remain  
57 confidential and exempt.

58 (c) The custodian of the record, or his or her designee,  
59 may not permit any other person to view or copy such photograph  
60 or video recording or listen to or copy such audio recording  
61 without a court order.

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62 (4) (a) The court, upon a showing of good cause, may issue  
63 an order authorizing any person to view or copy a photograph or  
64 video recording that depicts or records the killing of a law  
65 enforcement officer who was acting in accordance with his or her  
66 official duties, the killing of a victim of a school shooting,  
67 or the killing of a victim of a mass shooting, or to listen to  
68 or copy an audio recording that depicts or records the killing  
69 of a law enforcement officer who was acting in accordance with  
70 his or her official duties, the killing of a victim of a school  
71 shooting, or the killing of a victim of a mass shooting, and may  
72 prescribe any restrictions or stipulations that the court deems  
73 appropriate.

74 (b) In determining good cause, the court shall consider:

- 75 1. Whether such disclosure is necessary for the public  
76 evaluation of governmental performance;
- 77 2. The seriousness of the intrusion into the family's  
78 right to privacy and whether such disclosure is the least  
79 intrusive means available; and
- 80 3. The availability of similar information in other public  
81 records, regardless of form.

82 (c) In all cases, the viewing, copying, listening to, or  
83 other handling of a photograph or video or audio recording that  
84 depicts or records the killing of a law enforcement officer who  
85 was acting in accordance with his or her official duties, the  
86 killing of a victim of a school shooting, or the killing of a

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87 | victim of a mass shooting must be under the direct supervision  
88 | of the custodian of the record or his or her designee.

89 | (5) A surviving spouse shall be given reasonable notice of  
90 | a petition filed with the court to view or copy a photograph or  
91 | video recording that depicts or records the killing of a law  
92 | enforcement officer who was acting in accordance with his or her  
93 | official duties, the killing of a victim of a school shooting,  
94 | or the killing of a victim of a mass shooting, or to listen to  
95 | or copy any such audio recording, a copy of such petition, and  
96 | reasonable notice of the opportunity to be present and heard at  
97 | any hearing on the matter. If there is no surviving spouse, ~~then~~  
98 | such notice must be given to the parents of the deceased and, if  
99 | the deceased has no surviving ~~living~~ parent, ~~then~~ to the adult  
100 | children of the deceased.

101 | (6) (a) Any custodian of a photograph or video or audio  
102 | recording that depicts or records the killing of a law  
103 | enforcement officer who was acting in accordance with his or her  
104 | official duties, the killing of a victim of a school shooting,  
105 | or the killing of a victim of a mass shooting who willfully and  
106 | knowingly violates this section commits a felony of the third  
107 | degree, punishable as provided in s. 775.082, s. 775.083, or s.  
108 | 775.084.

109 | (b) Any person who willfully and knowingly violates a  
110 | court order issued pursuant to this section commits a felony of

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111 the third degree, punishable as provided in s. 775.082, s.  
112 775.083, or s. 775.084.

113 (c) A criminal or administrative proceeding is exempt from  
114 this section but, unless otherwise exempted, is subject to all  
115 other provisions of chapter 119; 7 provided, however, ~~that~~ this  
116 section does not prohibit a court in a criminal or  
117 administrative proceeding upon good cause shown from restricting  
118 or otherwise controlling the disclosure of a killing, crime  
119 scene, or similar photograph or video or audio recording  
120 ~~recordings~~ in the manner prescribed in this section ~~herein~~.

121 (7) The ~~This~~ exemption in this section shall be given  
122 retroactive application and shall apply to all photographs or  
123 video or audio recordings that depict or record the killing of a  
124 law enforcement officer who was acting in accordance with his or  
125 her official duties, the killing of a victim of a school  
126 shooting, or the killing of a victim of a mass shooting,  
127 regardless of whether the killing of the person occurred before,  
128 on, or after July 1, 2015 ~~2011~~. However, nothing in this section  
129 ~~herein~~ is intended to, nor may be construed to, overturn or  
130 abrogate or alter any existing orders duly entered into by any  
131 court of this state, as of the effective date of this act, which  
132 restrict or limit access to any photographs or video or audio  
133 recordings that depict or record the killing of a law  
134 enforcement officer who was acting in accordance with his or her

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135 official duties, the killing of a victim of a school shooting,  
136 or the killing of a victim of a mass shooting.

137 (8) This section only applies to such photographs and  
138 video and audio recordings held by an agency as defined in s.  
139 119.011.

140 (9) This section is subject to the Open Government Sunset  
141 Review Act in accordance with s. 119.15 and shall stand repealed  
142 on October 2, 2023, unless reviewed and saved from repeal  
143 through reenactment by the Legislature.

144 Section 2. (1) The Legislature finds that it is a public  
145 necessity that photographs and video and audio recordings that  
146 depict or record the killing of a victim of a school shooting or  
147 the killing of a victim of a mass shooting be made confidential  
148 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
149 Art. I of the State Constitution. The Legislature finds that  
150 photographs and video and audio recordings that depict or record  
151 the killing of a victim of a school shooting or the killing of a  
152 victim of a mass shooting render a graphic and often disturbing  
153 visual or aural representation of the deceased. Such photographs  
154 and video and audio recordings provide a view of the deceased in  
155 the final moments of life, often bruised, bloodied, broken, with  
156 bullet wounds or other wounds, cut open, dismembered, or  
157 decapitated. As such, photographs and video and audio recordings  
158 that depict or record the killing of a victim of a school  
159 shooting or the killing of a victim of a mass shooting are

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160 highly sensitive representations of the deceased which, if  
161 heard, viewed, copied, or publicized, could result in trauma,  
162 sorrow, humiliation, or emotional injury to the immediate family  
163 of the deceased and detract from the memory of the deceased. The  
164 Legislature recognizes that the existence of the Internet and  
165 the proliferation of personal computers and cellular telephones  
166 throughout the world encourages and promotes the wide  
167 dissemination of such photographs and video and audio recordings  
168 24 hours a day and that widespread unauthorized dissemination of  
169 such photographs and video and audio recordings would subject  
170 the immediate family of the deceased to continuous injury.

171 (2) In addition to the emotional and mental injury that  
172 these photographs and recordings may cause family members, the  
173 Legislature is also concerned that dissemination of photographs  
174 and video and audio recordings that depict or record the killing  
175 of a victim of a school shooting or the killing of a victim of a  
176 mass shooting is harmful to the public. The Legislature is  
177 gravely concerned and saddened by the horrific mass killings  
178 perpetrated at the Pulse nightclub in Orlando, the Fort  
179 Lauderdale-Hollywood International Airport, and Marjory Stoneman  
180 Douglas High School. The Legislature is concerned that, if these  
181 photographs and recordings are released, terrorists will use  
182 them to attract followers, bring attention to their causes, and  
183 inspire others to kill. The Legislature also finds that

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184 dissemination of these photographs and recordings may also educe  
185 violent acts by the mentally ill or morally corrupt.

186 (3) The Legislature further recognizes that there  
187 continues to be other types of available information, such as  
188 crime scene reports, which are less intrusive and injurious to  
189 the immediate family of the deceased and which continue to  
190 provide for public oversight. The Legislature further finds that  
191 the exemption provided in this act should be given retroactive  
192 application because it is remedial in nature.

193 Section 3. This act shall take effect upon becoming a law.

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195  
196 **T I T L E A M E N D M E N T**

197 Remove everything before the enacting clause and insert:

198 A bill to be entitled

199 An act relating to public records; amending s.  
200 406.136, F.S.; expanding an exemption from public  
201 records requirements for a photograph or video or  
202 audio recording held by an agency that depicts or  
203 records the killing of a law enforcement officer to  
204 include a photograph or video or audio recording held  
205 by an agency that depicts or records the killing of a  
206 victim of a school shooting or the killing of a victim  
207 of a mass shooting; providing for future legislative  
208 review and repeal of the exemption; providing a

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209 | statement of public necessity; providing an effective  
210 | date.

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