

Committee on Children, Families, and Elder Affairs

CS/SB 404 — Public Records/Photograph or Video or Audio Recording of the Killing of a Minor/Autopsy Reports of Minors

by Rules Committee and Senator Perry

The bill creates two new public records exemptions related to the death of minors.

First, the bill makes confidential and exempt from public disclosure the photographs or video or audio recordings that depict the killing of a minor when held by an agency. The bill defines the “killing of a minor” and specifies who may obtain such photographs and recordings and specifies the process for obtaining these materials. The bill provides for retroactive application of the exemption.

The bill amends s. 119.071(2)(p), F.S., to conform to the expanded exemption for photographs or video or audio recordings that depict the killing of a minor. Specifically:

- Certain government entities may access such photographs or video or audio recordings in furtherance of their official duties;
- The court, upon showing of good cause, may issue an order authorizing any person to view or copy such photographs or video or audio recordings;
- The record custodian in control of photographs or video or audio recordings, or his or her designee, must directly supervise anyone who views, copies, or handles such records;
- Any surviving parent must be given reasonable notice of petition to view or copy the photographs or video or audio recordings, a copy of the petition, and reasonable notice of the opportunity to be heard at any hearing; and
- Any custodian of photographs or video or audio recordings that depict the killing of a minor who willfully and knowingly violates the provisions in the section and any person who violates a court order issued pursuant to the section, commits a third degree felony.

The exemption created for photographs or video or audio recordings that depict the killing of a minor must be given retroactive application.

Second, the bill also creates the “Rex and Brody Act” and makes confidential and exempt from public inspection and copying requirements an autopsy report of a minor whose death was related to an act of domestic violence held by a medical examiner. The bill allows for disclosure of the report to the surviving parent who did not commit the act of domestic violence. The bill provides for retroactive application of the exemption.

The bill conforms several provisions in s. 406.135, F.S., to incorporate the expanded exemption for autopsy reports of certain minors. Specifically:

- Certain government entities may access such reports in furtherance of their official duties;
- The custodian of the record, or his or her designee, may not permit any other person, except an authorized designated agent, to view or copy an autopsy report of a minor;

- A court may use its discretion to authorize the disclosure of such reports;
- Reasonable notice of a petition to view such reports must be given to certain surviving parents; they must also receive a copy of the petition to view or copy such reports; and
- Any person who willfully and knowingly violates a court order regarding the disclosure of these reports, and any custodian who willfully and knowingly discloses these reports in violation of the law, are subject to a third degree felony.

The term “minor” is defined to mean a person younger than 18 years of age who has not had the disability of nonage removed.

The bill makes findings that the new exemptions from public records disclosure for photographs or video or audio recordings that depict the killing of a minor and for an autopsy report of a minor whose death was related to an act of domestic violence are a public necessity as required by the Florida Constitution.

The exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2028, unless reviewed and reenacted by the Legislature.

If approved by the Governor, or allowed to become law without the Governor’s signature, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 116-0