

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1579 Public Records/Autopsies
SPONSOR(S): Roberson
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1052

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>State Administration</u>	_____	<u>Williamson</u>	<u>Everhart</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Current law provides a public records exemption for a photograph or video or audio recording of an autopsy in the custody of a medical examiner. The law also provides that a surviving spouse may access such records; if there is no surviving spouse, the surviving parents have access. If there is no surviving spouse or parent, then an adult child has access to such records.

This bill creates an exception to that public records exemption. It authorizes any survivor to designate an agent to obtain such records. The bill also provides that the custodian of such records may allow an agent, designated in writing by a survivor, to view or copy such records.

This bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain: Not applicable.

B. EFFECT OF PROPOSED CHANGES:

Background

Current law provides a public records exemption for a photograph or video or audio recording of an autopsy in the custody of a medical examiner. The law also provides that a surviving spouse may access such records. If there is no surviving spouse, the surviving parents have access to such records, and if there is no surviving spouse or parent, then an adult child has access to such records. In addition, a local governmental entity or a state or federal agency may have access to such records pursuant to written request. A custodian of such records may not permit any other person to view or copy such records without a court order.¹

Effect of Bill

This bill creates an exception to the public records exemption for a photograph or video or audio recording of an autopsy. It authorizes any survivor to designate an agent to obtain such records. The bill also provides that the custodian of such records may allow an agent, designated in writing by a survivor, to view or copy such records.

C. SECTION DIRECTORY:

Section 1. Amends s. 406.135, F.S., allowing a survivor to designate an agent to obtain a photograph or video or audio recording of an autopsy.

Section 2. Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

¹ Section 406.135, F.S.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable. This bill does not affect municipal or county government.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

This bill allows *any* survivor to designate an agent to obtain a photograph or video or audio recording of an autopsy, which is contradictory to current law. Current law creates a hierarchy amongst surviving relatives for determining which relatives have access to such records. The order for such access is as follows: the surviving spouse; if no surviving spouse, the surviving parents; and if no surviving parent, a surviving adult child. As the bill is written, a survivor could be an aunt, uncle, grandparent, or cousin who could designate an agent to obtain the protected autopsy materials. Also, because the bill does not state that the survivor is a relative, a survivor could be anybody.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.