

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1579 w/CS 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>6 Y, 0 N w/CS</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 the deceased's surviving relative, with whom authority rests to obtain such records, to designate an agent to also obtain those records. The bill also provides that the custodian of such records may allow an agent, designated in writing by such survivor, to view or copy the records.

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

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1579a.sa.doc
DATE: March 31, 2003

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 the deceased's surviving relative, with whom authority rests to obtain such records, to designate an agent to also obtain those records. The bill also provides that the custodian of such records may allow an agent, designated in writing by such survivor, to view or copy the photograph or video or audio recording of the autopsy.

C. SECTION DIRECTORY:

Section 1. Amends s. 406.135, F.S., allowing the surviving relative with whom authority rests to obtain autopsy records to designate an agent to obtain such records.

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.

¹ Section 406.135, F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
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: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 31, 2003, the Committee on State Administration adopted an amendment to Representative Roberson's HB 1579. The bill was reported favorably with CS.

The bill as filed 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 bill with CS addresses the concern by clarifying that only the surviving relative, with whom authority rests to obtain autopsy records, may designate an agent to also obtain those records.