

1 A bill to be entitled
2 An act relating to public records; amending s.
3 406.135, F.S.; revising the definition of the term
4 "medical examiner"; providing that a legal guardian
5 shall have access, under certain circumstances, to a
6 photograph or video or audio recording of an autopsy
7 held by a medical examiner; providing that a legal
8 guardian shall be given reasonable notice of, a copy
9 of, and reasonable notice of an opportunity to be
10 present and heard at any hearing on a petition to view
11 or make a copy of such photograph or recording under
12 certain circumstances; providing an exemption from
13 public records requirements for a specified time after
14 the date of death or after a certain notification
15 occurs for an autopsy report or a related written
16 record held by a medical examiner which personally
17 identifies the deceased; providing for future
18 legislative review and repeal of the exemption;
19 providing criminal penalties for any custodian of an
20 autopsy report or a certain record who willfully and
21 knowingly violates specified provisions; providing
22 retroactive applicability; providing a statement of
23 public necessity; providing an effective date.

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

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27 Section 1. Subsections (1), (2), and (5) of section
28 406.135, Florida Statutes, are amended, present subsections (6)
29 through (8) of that section are redesignated as (7) through (9),
30 respectively, present subsections (6) and (8) are amended, and a
31 new subsection (6) is added to that section, to read:

32 406.135 Autopsies; confidentiality of reports, related
33 written records, photographs, and video and audio recordings;
34 exemption.—

35 (1) For the purpose of this section, the term "medical
36 examiner" means any district medical examiner, associate medical
37 examiner, or substitute medical examiner acting pursuant to this
38 chapter, as well as any employee, deputy, or agent of a medical
39 examiner or any other person who may obtain possession of an
40 autopsy report or a related written record that personally
41 identifies the deceased, or a photograph or audio or video
42 recording of an autopsy, in the course of assisting a medical
43 examiner in the performance of his or her official duties.

44 (2) A photograph or video or audio recording of an autopsy
45 held by a medical examiner is confidential and exempt from s.
46 119.07(1) and s. 24(a), Art. I of the State Constitution, except
47 that a surviving spouse may view and copy a photograph or video
48 recording or listen to or copy an audio recording of the
49 deceased spouse's autopsy. If there is no surviving spouse, ~~then~~
50 the surviving parents or legal guardians shall have access to

51 such records. If there is no surviving spouse, ~~or~~ parent, or
 52 legal guardian, ~~then~~ an adult child shall have access to such
 53 records.

54 (5) A surviving spouse shall be given reasonable notice of
 55 a petition filed with the court to view or copy a photograph or
 56 video recording of an autopsy or a petition to listen to or copy
 57 an audio recording, a copy of such petition, and reasonable
 58 notice of the opportunity to be present and heard at any hearing
 59 on the matter. If there is no surviving spouse, ~~then~~ such notice
 60 must be given to the parents or legal guardians of the deceased,
 61 and if the deceased has no surviving living parent or legal
 62 guardian, ~~then~~ to the adult children of the deceased.

63 (6) (a) An autopsy report or a related written record that
 64 personally identifies the deceased and that is held by a medical
 65 examiner is confidential and exempt from s. 119.07(1) and s.
 66 24(a), Art. I of the State Constitution for the earlier of 10
 67 days after the date of death or immediately after law
 68 enforcement notifies a surviving spouse, parent, legal guardian,
 69 or adult child of the deceased of any request to obtain the
 70 autopsy report, written record, or name of the deceased person.

71 (b) The exemption in paragraph (a) is subject to the Open
 72 Government Sunset Review Act in accordance with s. 119.15 and
 73 shall stand repealed on October 2, 2023, unless reviewed and
 74 saved from repeal through reenactment by the Legislature.

75 (7) (a) ~~(6) (a)~~ Any custodian of an autopsy report or a

76 related written record that personally identifies the deceased,
 77 or a photograph or video or audio recording of an autopsy, who
 78 willfully and knowingly violates this section commits a felony
 79 of the third degree, punishable as provided in s. 775.082, s.
 80 775.083, or s. 775.084.

81 (b) Any person who willfully and knowingly violates a
 82 court order issued pursuant to this section commits a felony of
 83 the third degree, punishable as provided in s. 775.082, s.
 84 775.083, or s. 775.084.

85 ~~(9)(8)~~ This exemption applies to records held before, on,
 86 or after the effective date of this act ~~shall be given~~
 87 ~~retroactive application.~~

88 Section 2. The Legislature finds that it is a public
 89 necessity that autopsy reports and related written records that
 90 personally identify the deceased be made confidential and exempt
 91 from the requirements of s. 119.07(1), Florida Statutes, and s.
 92 24(a), Article I of the State Constitution for 10 days after the
 93 date of death or until the family has been notified by law
 94 enforcement. The Legislature finds that the deceased's family
 95 may unexpectedly encounter new information obtained from an
 96 autopsy report or related written record regarding the death of
 97 a loved one which is published or conveyed by word of mouth,
 98 causing the family to experience trauma, sorrow, humiliation, or
 99 emotional injury. The Legislature finds that, although access
 100 delayed is access denied, the deceased's family should be given

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101 a reasonable time to be notified before any highly sensitive
102 autopsy report or related written record that personally
103 identifies the deceased is released to the public. The
104 Legislature further finds that the exemption provided in this
105 act should be given retroactive application because it is
106 remedial in nature.

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