

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 a medical examiner has completed an autopsy report;
15 providing for future legislative review and repeal of
16 the exemption; providing criminal penalties for any
17 custodian of an autopsy report or a certain record who
18 willfully and knowingly violates specified provisions;
19 providing retroactive applicability; providing a
20 statement of public necessity; providing an effective
21 date.

22
23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Subsections (1), (2), and (5) of section

26 | 406.135, Florida Statutes, are amended, present subsections (6)
 27 | through (8) of that section are redesignated as (7) through (9),
 28 | respectively, present subsections (6) and (8) are amended, and a
 29 | new subsection (6) is added to that section, to read:

30 | 406.135 Autopsies; confidentiality of reports, related
 31 | written records, photographs, and video and audio recordings;
 32 | exemption.—

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

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

51 records.

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

61 (6) (a) An autopsy report or a related written record that
 62 personally identifies the deceased and that is held by a medical
 63 examiner is confidential and exempt from s. 119.07(1) and s.
 64 24(a), Art. I of the State Constitution for 10 days after the
 65 medical examiner has completed the report, except that a
 66 surviving spouse of the deceased may view and copy the records.
 67 If there is no surviving spouse, the surviving parents or legal
 68 guardians of the deceased shall have access to such records. If
 69 there is no surviving spouse, parent, or legal guardian, an
 70 adult child of the deceased shall have access to such records.

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 medical examiner has completed the autopsy report. The
94 Legislature finds that the deceased's family may unexpectedly
95 encounter new information obtained from an autopsy report or
96 related written record regarding the death of a loved one which
97 is published or conveyed by word of mouth, causing the family to
98 experience trauma, sorrow, humiliation, or emotional injury. The
99 Legislature finds that, although access delayed is access
100 denied, the deceased's family should be given a reasonable time

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

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