

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Clemons offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraph (p) of subsection (2) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(p)1. As used in this paragraph, the term:

a. "Killing of a law enforcement officer who was acting in accordance with his or her official duties" means all acts or events that cause or otherwise relate to the death of a law enforcement officer who was acting in accordance with his or her

Amendment No. 1

16 official duties, including any related acts or events
17 immediately preceding or subsequent to the acts or events that
18 were the proximate cause of death.

19 b. "Killing of a victim of mass violence" means events
20 that depict either a victim being killed or the body of a victim
21 killed in an incident in which three or more persons, not
22 including the perpetrator, are killed by the perpetrator of an
23 intentional act of violence.

24 c. "Killing of a minor" means all acts or events that
25 cause or otherwise relate to the death of a victim who has not
26 yet reached the age of eighteen at the time of the death,
27 including any related acts or events immediately preceding or
28 subsequent to the acts or events that were the proximate cause
29 of the death of a victim under the age of eighteen, events that
30 depict a victim under the age of eighteen being killed, or
31 events that depict the body of a victim under the age of
32 eighteen who has been killed.

33 2.a. A photograph or video or audio recording that depicts
34 or records the killing of a law enforcement officer who was
35 acting in accordance with his or her official duties or the
36 killing of a victim of mass violence is confidential and exempt
37 from s. 119.07(1) and s. 24(a), Art. I of the State
38 Constitution, except that a surviving spouse of the decedent may
39 view and copy any such photograph or video recording or listen

Amendment No. 1

40 to or copy any such audio recording. If there is no surviving
41 spouse, the surviving parents shall have access to such records.
42 If there is no surviving spouse or parent, the adult children
43 shall have access to such records. Nothing in this sub-
44 subparagraph precludes a surviving spouse, parent, or adult
45 child of the victim from sharing or publicly releasing such
46 photograph or video or audio recording.

47 b. A photograph or video or audio recording that depicts
48 or records the killing of a minor is confidential and exempt
49 from s. 119.07(1) and s. 24(a), Art. I of the State
50 Constitution, except that a surviving parent of the deceased
51 minor may view and copy any such photograph or video recording
52 or listen to or copy any such audio recording. Nothing in this
53 sub-subparagraph precludes a surviving parent of the victim from
54 sharing or publicly releasing such photograph or video or audio
55 recording.

56 3.a. The deceased's surviving relative, with whom
57 authority rests to obtain such records, may designate in writing
58 an agent to obtain such records.

59 b. Notwithstanding subparagraph 2., a local governmental
60 entity, or a state or federal agency, in furtherance of its
61 official duties, pursuant to a written request, may view or copy
62 a photograph or video recording or may listen to or copy an
63 audio recording of the killing of a law enforcement officer who

Amendment No. 1

64 was acting in accordance with his or her official duties, ~~or~~ the
65 killing of a victim of mass violence, or the killing of a minor,
66 and, unless otherwise required in the performance of its duties,
67 the identity of the deceased shall remain confidential and
68 exempt.

69 c. The custodian of the record, or his or her designee,
70 may not permit any other person to view or copy such photograph
71 or video recording or listen to or copy such audio recording
72 without a court order.

73 4.a. The court, upon a showing of good cause, may issue an
74 order authorizing any person to view or copy a photograph or
75 video recording that depicts or records the killing of a law
76 enforcement officer who was acting in accordance with his or her
77 official duties, ~~or~~ the killing of a victim of mass violence, or
78 the killing of a minor, or to listen to or copy an audio
79 recording that depicts or records the killing of a law
80 enforcement officer who was acting in accordance with his or her
81 official duties, ~~or~~ the killing of a victim of mass violence, or
82 the killing of a minor, and may prescribe any restrictions or
83 stipulations that the court deems appropriate.

84 b. In determining good cause, the court shall consider:

85 (I) Whether such disclosure is necessary for the public
86 evaluation of governmental performance;

Amendment No. 1

87 (II) The seriousness of the intrusion into the family's
88 right to privacy and whether such disclosure is the least
89 intrusive means available; and

90 (III) The availability of similar information in other
91 public records, regardless of form.

92 c. In all cases, the viewing, copying, listening to, or
93 other handling of a photograph or video or audio recording that
94 depicts or records the killing of a law enforcement officer who
95 was acting in accordance with his or her official duties, ~~or~~ the
96 killing of a victim of mass violence, or the killing of a minor
97 must be under the direct supervision of the custodian of the
98 record or his or her designee.

99 5.a. A surviving spouse shall be given reasonable notice
100 of a petition filed with the court to view or copy a photograph
101 or video recording that depicts or records the killing of a law
102 enforcement officer who was acting in accordance with his or her
103 official duties or the killing of a victim of mass violence or
104 to listen to or copy any such audio recording, a copy of such
105 petition, and reasonable notice of the opportunity to be present
106 and heard at any hearing on the matter. If there is no surviving
107 spouse, such notice must be given to the parents of the deceased
108 and, if the deceased has no surviving parent, to the adult
109 children of the deceased.

Amendment No. 1

110 b. A surviving parent shall be given reasonable notice of
111 a petition filed with the court to view or copy a photograph or
112 video recording that depicts or records the killing of a minor
113 or to listen to or copy any such audio recording, a copy of such
114 petition, and reasonable notice of the opportunity to be present
115 and heard at any hearing on the matter.

116 6.a. Any custodian of a photograph or video or audio
117 recording that depicts or records the killing of a law
118 enforcement officer who was acting in accordance with his or her
119 official duties, ~~or~~ the killing of a victim of mass violence, or
120 the killing of a minor who willfully and knowingly violates this
121 paragraph commits a felony of the third degree, punishable as
122 provided in s. 775.082, s. 775.083, or s. 775.084.

123 b. Any person who willfully and knowingly violates a court
124 order issued pursuant to this paragraph commits a felony of the
125 third degree, punishable as provided in s. 775.082, s. 775.083,
126 or s. 775.084.

127 c. A criminal or administrative proceeding is exempt from
128 this paragraph but, unless otherwise exempted, is subject to all
129 other provisions of chapter 119; however, this paragraph does
130 not prohibit a court in a criminal or administrative proceeding
131 upon good cause shown from restricting or otherwise controlling
132 the disclosure of a killing, crime scene, or similar photograph

Amendment No. 1

133 or video or audio recording in the manner prescribed in this
134 paragraph.

135 7. The exemption in this paragraph shall be given
136 retroactive application and shall apply to all photographs or
137 video or audio recordings that depict or record the killing of a
138 law enforcement officer who was acting in accordance with his or
139 her official duties, or the killing of a victim of mass
140 violence, or the killing of a minor, regardless of whether the
141 killing of the person occurred before, on, or after May 23,
142 2019. However, nothing in this paragraph is intended to, nor may
143 be construed to, overturn or abrogate or alter any existing
144 orders duly entered into by any court of this state, as of the
145 effective date of this act, which restrict or limit access to
146 any photographs or video or audio recordings that depict or
147 record the killing of a law enforcement officer who was acting
148 in accordance with his or her official duties, or the killing of
149 a victim of mass violence, or the killing of a minor.

150 8. This paragraph applies only to such photographs and
151 video and audio recordings held by an agency.

152 9. This paragraph is subject to the Open Government Sunset
153 Review Act in accordance with s. 119.15 and shall stand repealed
154 on October 2, 2028 ~~2024~~, unless reviewed and saved from repeal
155 through reenactment by the Legislature.

Amendment No. 1

156 Section 2. (1) The Legislature finds that it is a public
157 necessity that photographs and video and audio recordings that
158 depict or record the killing of a minor be made confidential and
159 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
160 Article I of the State Constitution and that such exemption be
161 applied retroactively. The Legislature finds that photographs
162 and video and audio recordings that depict or record the killing
163 of a minor render a graphic and often disturbing visual or aural
164 representation of the deceased. Such photographs and video and
165 audio recordings provide a view of the deceased in the final
166 moments of life, in which they are often bruised, bloodied,
167 broken, baring bullet wounds or other wounds, lacerated,
168 dismembered, or decapitated. As such, photographs and video and
169 audio recordings that depict or record the killing of a minor
170 are highly sensitive representations of the deceased which, if
171 heard, viewed, copied, or publicized, could result in trauma,
172 sorrow, humiliation, or emotional injury to the immediate family
173 of the deceased and detract from the memory of the deceased. The
174 Legislature recognizes that the existence of the Internet and
175 the proliferation of personal computers and cellular telephones
176 throughout the world encourages and promotes the wide
177 dissemination of such photographs and video and audio recordings
178 24 hours a day and that widespread unauthorized dissemination of

Amendment No. 1

179 such photographs and video and audio recordings would subject
180 the immediate family of the deceased to continuous injury.

181 (2) In addition to the emotional and mental injury that
182 these photographs and video and audio recordings may cause
183 family members, the Legislature is also concerned that
184 dissemination of photographs and video and audio recordings that
185 depict or record the killing of a minor is harmful to the
186 public. The Legislature is concerned that the release of these
187 photographs and video and audio recordings may educe violent
188 acts by persons who have a mental illness or who are morally
189 corrupt.

190 Section 3. Sections 4 and 5 of this Act may be cited as
191 the "Rex and Brody Act."

192 Section 4. Section 406.135, Florida Statutes, is amended
193 to read:

194 406.135 Autopsies; confidentiality of photographs and
195 video and audio recordings; confidentiality of reports of minor
196 victims of domestic violence; exemption.-

197 (1) As used in ~~For the purpose of~~ this section, the term:

198 (a) "Domestic violence" has the same meaning as in s.
199 741.28.

200 (b) "Medical examiner" means any district medical
201 examiner, associate medical examiner, or substitute medical
202 examiner acting pursuant to this chapter, as well as any

Amendment No. 1

203 employee, deputy, or agent of a medical examiner or any other
204 person who may obtain possession of a report, photograph, or
205 audio or video recording of an autopsy in the course of
206 assisting a medical examiner in the performance of his or her
207 official duties.

208 (c) "Minor" means a person younger than 18 years of age
209 who has not had the disability of nonage removed pursuant to s.
210 743.01 or s. 743.015.

211 (2) (a) A photograph or video or audio recording of an
212 autopsy held by a medical examiner is confidential and exempt
213 from s. 119.07(1) and s. 24(a), Art. I of the State
214 Constitution, except that a surviving spouse may view and copy a
215 photograph or video recording or listen to or copy an audio
216 recording of the deceased spouse's autopsy. If there is no
217 surviving spouse, then the surviving parents shall have access
218 to such records. If there is no surviving spouse or parent, then
219 an adult child shall have access to such records.

220 (b) An autopsy report of a minor whose death was related
221 to an act of domestic violence held by a medical examiner is
222 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
223 of the State Constitution, except that a surviving parent of the
224 deceased minor may view and copy the autopsy report if the
225 surviving parent did not commit the act of domestic violence
226 which led to the minor's death.

Amendment No. 1

227 (3) (a) The deceased's surviving relative, with whom
228 authority rests to obtain such records, may designate in writing
229 an agent to obtain such records.

230 (b) Notwithstanding subsection (2), a A local governmental
231 entity, or a state or federal agency, in furtherance of its
232 official duties, pursuant to a written request, may:

233 1. View or copy a photograph or video recording or may
234 listen to or copy an audio recording of an autopsy, and

235 2. View or copy an autopsy report of a minor whose death
236 was related to an act of domestic violence.

237
238 Unless otherwise required in the performance of official ~~their~~
239 duties, the identity of the deceased shall remain confidential
240 and exempt.

241 (c) The custodian of the record, or his or her designee,
242 may not permit any other person, except an agent designated in
243 writing by the deceased's surviving relative with whom authority
244 rests to obtain such records, to view or copy an autopsy report
245 of a minor whose death was related to an act of domestic
246 violence or a ~~such~~ photograph or video recording of an autopsy
247 or listen to or copy an audio recording of an autopsy without a
248 court order.

249 (4) (a) The court, upon a showing of good cause, may issue
250 an order authorizing any person to view or copy an autopsy

Amendment No. 1

251 report of a minor whose death was related to an act of domestic
252 violence or a photograph or video recording of an autopsy or to
253 listen to or copy an audio recording of an autopsy and may
254 prescribe any restrictions or stipulations that the court deems
255 appropriate.

256 (b) In determining good cause, the court shall consider
257 whether such disclosure is necessary for the public evaluation
258 of governmental performance; the seriousness of the intrusion
259 into the family's right to privacy and whether such disclosure
260 is the least intrusive means available; and the availability of
261 similar information in other public records, regardless of form.

262 (c) In all cases, the viewing, copying, listening to, or
263 other handling of an autopsy report of a minor whose death was
264 related to an act of domestic violence or a photograph or video
265 or audio recording of an autopsy must be under the direct
266 supervision of the custodian of the record or his or her
267 designee.

268 (5)(a) A surviving spouse must ~~shall~~ be given reasonable
269 notice of a petition filed with the court to view or copy a
270 photograph or video recording of an autopsy or a petition to
271 listen to or copy an audio recording, a copy of such petition,
272 and reasonable notice of the opportunity to be present and heard
273 at any hearing on the matter. If there is no surviving spouse,
274 then such notice must be given to the parents of the deceased,

173323 - hb0273-strike.docx

Published On: 3/22/2023 5:11:04 PM

Amendment No. 1

275 and if there is ~~the deceased has~~ no living parent, then to the
276 adult children of the deceased.

277 (b) For an autopsy report of a minor whose death was
278 related to an act of domestic violence, any surviving parent who
279 did not commit the act of domestic violence which led to the
280 minor's death must be given reasonable notice of a petition
281 filed with the court to view or copy the autopsy report, a copy
282 of such petition, and reasonable notice of the opportunity to be
283 present and heard at any hearing on the matter.

284 (6) (a) Any custodian of an autopsy report of a minor whose
285 death was related to act of domestic violence or a photograph or
286 video or audio recording of an autopsy who willfully and
287 knowingly violates this section commits a felony of the third
288 degree, punishable as provided in s. 775.082, s. 775.083, or s.
289 775.084.

290 (b) Any person who willfully and knowingly violates a
291 court order issued pursuant to this section commits a felony of
292 the third degree, punishable as provided in s. 775.082, s.
293 775.083, or s. 775.084.

294 (7) A criminal or administrative proceeding is exempt from
295 this section, ~~but unless otherwise exempted,~~ is subject to all
296 other provisions of chapter 119 unless otherwise exempted.
297 ~~provided however that~~ This section does not prohibit a court in
298 a criminal or administrative proceeding upon good cause shown

Amendment No. 1

299 from restricting or otherwise controlling the disclosure of an
300 autopsy, crime scene, or similar report, photograph, or video or
301 audio recording recordings in the manner prescribed herein.

302 (8) The exemptions in this section ~~This exemption~~ shall be
303 given retroactive application.

304 (9) This section is subject to the Open Government Sunset
305 Review Act in accordance with s. 119.15 and shall stand repealed
306 on October 2, 2028, unless reviewed and saved from repeal
307 through reenactment by the Legislature.

308 Section 5. The Legislature finds that it is a public
309 necessity that autopsy reports of minors whose deaths were
310 related to acts of domestic violence be made confidential and
311 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
312 Article I of the State Constitution. The Legislature finds that
313 autopsy reports describe the deceased in a graphic and often
314 disturbing fashion and that autopsy reports of minors whose
315 deaths were related to acts of domestic violence may describe
316 the deceased nude, bruised, bloodied, broken, with bullet or
317 other wounds, cut open, dismembered, or decapitated. As such,
318 these reports often contain highly sensitive descriptions of the
319 deceased which, if heard, viewed, copied, or publicized, could
320 result in trauma, sorrow, humiliation, or emotional injury to
321 the immediate family and minor friends of the deceased, as well
322 as injury to the memory of the deceased. The Legislature

173323 - hb0273-strike.docx

Published On: 3/22/2023 5:11:04 PM

Amendment No. 1

323 recognizes that the existence of the Internet and the
324 proliferation of websites throughout the world encourages and
325 promotes the wide dissemination of reports and publications 24
326 hours a day, and that widespread unauthorized dissemination of
327 autopsy reports of minors whose deaths were related to acts of
328 domestic violence would subject the immediate family and minor
329 friends of the deceased to continuous injury. The Legislature
330 further finds that the exemption provided in this act should be
331 given retroactive application because it is remedial in nature.

332 Section 6. This act shall take effect upon becoming a law.

334 -----

335 **T I T L E A M E N D M E N T**

336 Remove everything before the enacting clause and insert:
337 An act relating to public records; amending s. 119.071, F.S.;
338 providing a definition; creating an exemption from public
339 records requirements for a photograph or video or audio
340 recording of the killing of a minor; requiring that any viewing,
341 copying, or other handling of such photograph or video or audio
342 recording be under the direct supervision of the custodian of
343 record or his or her designee; requiring that surviving parents
344 of a minor be given notice of petitions to view or copy a
345 photograph or video or audio recording of the killing of the
346 minor and the opportunity to be present and heard at related

Amendment No. 1

347 hearings under certain circumstances; providing penalties;
348 providing construction; providing for retroactive application;
349 providing for future legislative review and repeal of the
350 exemption; providing a statement of public necessity; providing
351 a short title for specified sections; amending s. 406.135, F.S.;
352 revising and providing definitions; creating an exemption from
353 public records requirements for autopsy reports of minors whose
354 deaths were related to acts of domestic violence; providing
355 exceptions; requiring that any viewing, copying, or other
356 handling of such autopsy reports be under the direct supervision
357 of the custodian of record or his or her designee; requiring
358 that certain surviving parents of a minor whose death was
359 related to an act of domestic violence be given notice of
360 petitions to view or copy the minor's autopsy report and the
361 opportunity to be present and heard at related hearings under
362 certain circumstances; providing penalties; providing
363 construction; providing for retroactive application; providing
364 for future legislative review and repeal of the exemption;
365 providing a statement of public necessity; providing an
366 effective date.