

By Senator Perry

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1                   A bill to be entitled  
2       An act relating to public records; providing a short  
3       title; amending s. 406.135, F.S.; revising the  
4       definition of the term "medical examiner"; defining  
5       the term "minor"; creating an exemption from public  
6       records requirements for autopsy reports of minors  
7       whose deaths were related to acts of domestic  
8       violence; providing exceptions; requiring that any  
9       viewing, copying, or other handling of such autopsy  
10      reports be under the direct supervision of the  
11      custodian of the record or his or her designee;  
12      requiring that certain surviving parents of a minor  
13      whose death was related to an act of domestic violence  
14      be given notice of petitions to view or copy the  
15      minor's autopsy report and the opportunity to be  
16      present and heard at related hearings under certain  
17      circumstances; providing penalties; providing  
18      construction; providing for retroactive application;  
19      providing for future legislative review and repeal of  
20      the exemption; providing a statement of public  
21      necessity; providing an effective date.

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

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25       Section 1. This act may be cited as the "Rex and Brody  
26 Act."

27       Section 2. Section 406.135, Florida Statutes, is amended to  
28 read:

29       406.135 Autopsies; confidentiality of photographs and video

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30 and audio recordings; confidentiality of reports of minor  
31 victims of domestic violence; exemption.—

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

33 (a) "Medical examiner" means any district medical examiner,  
34 associate medical examiner, or substitute medical examiner  
35 acting pursuant to this chapter, as well as any employee,  
36 deputy, or agent of a medical examiner or any other person who  
37 may obtain possession of a report, photograph, or audio or video  
38 recording of an autopsy in the course of assisting a medical  
39 examiner in the performance of his or her official duties.

40 (b) "Minor" means a person younger than 18 years of age who  
41 has not had the disability of nonage removed pursuant to s.  
42 743.01 or s. 743.015.

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

52 (b) An autopsy report of a minor whose death was related to  
53 an act of domestic violence as defined in s. 741.28 held by a  
54 medical examiner is confidential and exempt from s. 119.07(1)  
55 and s. 24(a), Art. I of the State Constitution, except that a  
56 surviving parent of the deceased minor may view and copy the  
57 report if the surviving parent did not commit the act of  
58 domestic violence which led to the minor's death.

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

62 (b) A local governmental entity, or a state or federal  
63 agency, in furtherance of its official duties, pursuant to a  
64 written request, may view or copy a photograph or video  
65 recording of an autopsy or a minor's autopsy report or may  
66 listen to or copy an audio recording of an autopsy, and unless  
67 otherwise required in the performance of official ~~their~~ duties,  
68 the identity of the deceased shall remain confidential and  
69 exempt.

70 (c) The custodian of the record, or his or her designee,  
71 may not permit any other person, except an agent designated in  
72 writing by the deceased's surviving relative with whom authority  
73 rests to obtain such records, to view or copy such photograph,  
74 ~~or~~ video recording, or minor's autopsy report or listen to or  
75 copy an audio recording without a court order.

76 (4) (a) The court, upon a showing of good cause, may issue  
77 an order authorizing any person to view or copy a photograph or  
78 video recording of an autopsy or a minor's autopsy report or to  
79 listen to or copy an audio recording of an autopsy and may  
80 prescribe any restrictions or stipulations that the court deems  
81 appropriate.

82 (b) In determining good cause, the court shall consider  
83 whether such disclosure is necessary for the public evaluation  
84 of governmental performance; the seriousness of the intrusion  
85 into the family's right to privacy and whether such disclosure  
86 is the least intrusive means available; and the availability of  
87 similar information in other public records, regardless of form.

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88 (c) In all cases, the viewing, copying, listening to, or  
89 other handling of a photograph or video or audio recording of an  
90 autopsy or a minor's autopsy report must be under the direct  
91 supervision of the custodian of the record or his or her  
92 designee.

93 (5) (a) A surviving spouse must ~~shall~~ be given reasonable  
94 notice of a petition filed with the court to view or copy a  
95 photograph or video recording of an autopsy or a petition to  
96 listen to or copy an audio recording, a copy of such petition,  
97 and reasonable notice of the opportunity to be present and heard  
98 at any hearing on the matter. If there is no surviving spouse,  
99 then such notice must be given to the parents of the deceased,  
100 and if there is ~~the deceased has~~ no living parent, then to the  
101 adult children of the deceased.

102 (b) For an autopsy report of a minor whose death was  
103 related to an act of domestic violence as defined in s. 741.28,  
104 any surviving parent who did not commit the act of domestic  
105 violence which led to the minor's death must be given reasonable  
106 notice of a petition filed with the court to view or copy the  
107 report, a copy of such petition, and reasonable notice of the  
108 opportunity to be present and heard at any hearing on the  
109 matter.

110 (6) (a) Any custodian of a photograph or video or audio  
111 recording of an autopsy or a minor's autopsy report who  
112 willfully and knowingly violates this section commits a felony  
113 of the third degree, punishable as provided in s. 775.082, s.  
114 775.083, or s. 775.084.

115 (b) Any person who willfully and knowingly violates a court  
116 order issued pursuant to this section commits a felony of the

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117 third degree, punishable as provided in s. 775.082, s. 775.083,  
118 or s. 775.084.

119 (7) A criminal or administrative proceeding is exempt from  
120 this section~~, but unless otherwise exempted,~~ is subject to all  
121 other provisions of chapter 119 unless otherwise exempted. ~~provided however that~~ This section does not prohibit a court in  
122 a criminal or administrative proceeding upon good cause shown  
123 from restricting or otherwise controlling the disclosure of an  
124 autopsy, crime scene, or similar report, photograph, or video or  
125 audio recording recordings in the manner prescribed herein.

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

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

133 Section 3. The Legislature finds that it is a public  
134 necessity that autopsy reports of minors whose deaths were  
135 related to acts of domestic violence be made confidential and  
136 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
137 Article I of the State Constitution. The Legislature finds that  
138 autopsy reports describe the deceased in a graphic and often  
139 disturbing fashion and that autopsy reports of minors whose  
140 deaths were related to acts of domestic violence may describe  
141 the deceased nude, bruised, bloodied, broken, with bullet or  
142 other wounds, cut open, dismembered, or decapitated. As such,  
143 these reports often contain highly sensitive descriptions of the  
144 deceased which, if heard, viewed, copied, or publicized, could  
145 result in trauma, sorrow, humiliation, or emotional injury to

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146 the immediate family and minor friends of the deceased, as well  
147 as injury to the memory of the deceased. The Legislature  
148 recognizes that the existence of the Internet and the  
149 proliferation of websites throughout the world encourages and  
150 promotes the wide dissemination of reports and publications 24  
151 hours a day, and that widespread unauthorized dissemination of  
152 autopsy reports of minors whose deaths were related to acts of  
153 domestic violence would subject the immediate family and minor  
154 friends of the deceased to continuous injury. The Legislature  
155 further finds that the exemption provided in this act should be  
156 given retroactive application because it is remedial in nature.

157 Section 4. This act shall take effect upon becoming a law.