

By Senator Grall

29-00374A-24

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; defining the term "suicide of a
4 person"; creating an exemption from public records
5 requirements for a photograph or video or audio
6 recording of the suicide of a person; providing
7 exceptions; requiring that any viewing, copying,
8 listening to, or other handling of such photograph or
9 video or audio recording be under the direct
10 supervision of the custodian of the record or his or
11 her designee; providing criminal penalties; providing
12 construction; providing for retroactive application;
13 providing for future legislative review and repeal of
14 the exemption; providing a statement of public
15 necessity; amending s. 406.135, F.S.; creating an
16 exemption from public records requirements for autopsy
17 reports of suicide victims; providing exceptions;
18 requiring that any viewing, copying, listening to, or
19 other handling of such autopsy reports be under the
20 direct supervision of the custodian of the record or
21 his or her designee; providing criminal penalties;
22 providing construction; providing for retroactive
23 application; providing for future legislative review
24 and repeal of the exemption; providing a statement of
25 public necessity; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Paragraph (p) of subsection (2) of section

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30 119.071, Florida Statutes, is amended to read:

31 119.071 General exemptions from inspection or copying of
32 public records.—

33 (2) AGENCY INVESTIGATIONS.—

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

35 a. "Killing of a law enforcement officer who was acting in
36 accordance with his or her official duties" means all acts or
37 events that cause or otherwise relate to the death of a law
38 enforcement officer who was acting in accordance with his or her
39 official duties, including any related acts or events
40 immediately preceding or subsequent to the acts or events that
41 were the proximate cause of death.

42 b. "Killing of a minor" means all acts or events that cause
43 or otherwise relate to the death of a victim who has not yet
44 reached the age of 18 at the time of the death, including any
45 related acts or events immediately preceding or subsequent to
46 the acts or events that were the proximate cause of the death of
47 a victim under the age of 18, events that depict a victim under
48 the age of 18 being killed, or events that depict the body of a
49 victim under the age of 18 who has been killed.

50 c. "Killing of a victim of mass violence" means events that
51 depict either a victim being killed or the body of a victim
52 killed in an incident in which three or more persons, not
53 including the perpetrator, are killed by the perpetrator of an
54 intentional act of violence.

55 d. "Suicide of a person" means events that depict the
56 suicide of a person, the body of a person whose manner of death
57 was suicide, or any portion of such person's body.

58 2.a. A photograph or video or audio recording that depicts

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59 or records the killing of a law enforcement officer who was
60 acting in accordance with his or her official duties or the
61 killing of a victim of mass violence is confidential and exempt
62 from s. 119.07(1) and s. 24(a), Art. I of the State
63 Constitution, except that a surviving spouse of the decedent may
64 view and copy any such photograph or video recording or listen
65 to or copy any such audio recording. If there is no surviving
66 spouse, the surviving parents shall have access to such records.
67 If there is no surviving spouse or parent, the adult children
68 shall have access to such records. Nothing in this sub-
69 subparagraph precludes a surviving spouse, parent, or adult
70 child of the victim from sharing or publicly releasing such
71 photograph or video or audio recording.

72 b. A photograph or video or audio recording that depicts or
73 records the killing of a minor is confidential and exempt from
74 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
75 except that a surviving parent of the deceased minor may view
76 and copy any such photograph or video recording or listen to or
77 copy any such audio recording. Nothing in this sub-subparagraph
78 precludes a surviving parent of the victim from sharing or
79 publicly releasing such photograph or video or audio recording.

80 c. A photograph or video or audio recording that depicts or
81 records the suicide of a person is confidential and exempt from
82 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
83 except that a surviving spouse of the deceased may view and copy
84 any such photograph or video recording or listen to or copy any
85 such audio recording. If there is no surviving spouse, the
86 surviving parents must have access to such records. If there is
87 no surviving spouse or parent, the adult children and siblings

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88 must have access to such records. This section does not preclude
89 a surviving spouse, parent, adult child, or sibling of the
90 victim from sharing or publicly releasing such photograph or
91 video or audio recording.

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

95 b. Notwithstanding subparagraph 2., a local governmental
96 entity, or a state or federal agency, in furtherance of its
97 official duties, pursuant to a written request, may view or copy
98 a photograph or video recording or may listen to or copy an
99 audio recording of the killing of a law enforcement officer who
100 was acting in accordance with his or her official duties, the
101 killing of a victim of mass violence, ~~or~~ the killing of a minor,
102 or the suicide of a person, and, unless otherwise required in
103 the performance of its duties, the identity of the deceased
104 shall remain confidential and exempt.

105 c. The custodian of the record, or his or her designee, may
106 not permit any other person to view or copy such photograph or
107 video recording or listen to or copy such audio recording
108 without a court order.

109 4.a. The court, upon a showing of good cause, may issue an
110 order authorizing any person to view or copy a photograph or
111 video recording that depicts or records the killing of a law
112 enforcement officer who was acting in accordance with his or her
113 official duties, the killing of a victim of mass violence, ~~or~~
114 the killing of a minor, or the suicide of a person or to listen
115 to or copy an audio recording that depicts or records the
116 killing of a law enforcement officer who was acting in

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117 accordance with his or her official duties, the killing of a
118 victim of mass violence, ~~or~~ the killing of a minor, or the
119 suicide of a person and may prescribe any restrictions or
120 stipulations that the court deems appropriate.

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

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

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

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

129 c. In all cases, the viewing, copying, listening to, or
130 other handling of a photograph or video or audio recording that
131 depicts or records the killing of a law enforcement officer who
132 was acting in accordance with his or her official duties, the
133 killing of a victim of mass violence, ~~or~~ the killing of a minor,
134 or the suicide of a person must be under the direct supervision
135 of the custodian of the record or his or her designee.

136 5.a. A surviving spouse shall be given reasonable notice of
137 a petition filed with the court to view or copy a photograph or
138 video recording that depicts or records the killing of a law
139 enforcement officer who was acting in accordance with his or her
140 official duties or the killing of a victim of mass violence, or
141 to listen to or copy any such audio recording, a copy of such
142 petition, and reasonable notice of the opportunity to be present
143 and heard at any hearing on the matter. If there is no surviving
144 spouse, such notice must be given to the parents of the deceased
145 and, if there is no surviving parent, to the adult children of

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146 the deceased.

147 b. A surviving parent must be given reasonable notice of a
148 petition filed with the court to view or copy a photograph or
149 video recording that depicts or records the killing of a minor
150 or to listen to or copy any such audio recording; a copy of such
151 petition; and reasonable notice of the opportunity to be present
152 and heard at any hearing on the matter.

153 6.a. Any custodian of a photograph or video or audio
154 recording that depicts or records the killing of a law
155 enforcement officer who was acting in accordance with his or her
156 official duties, the killing of a victim of mass violence, ~~or~~
157 the killing of a minor, or the suicide of a person who willfully
158 and knowingly violates this paragraph commits a felony of the
159 third degree, punishable as provided in s. 775.082, s. 775.083,
160 or s. 775.084.

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

165 c. A criminal or administrative proceeding is exempt from
166 this paragraph but, unless otherwise exempted, is subject to all
167 other provisions of chapter 119; however, this paragraph does
168 not prohibit a court in a criminal or administrative proceeding
169 upon good cause shown from restricting or otherwise controlling
170 the disclosure of a killing, crime scene, or similar photograph
171 or video or audio recording in the manner prescribed in this
172 paragraph.

173 7. The exemptions ~~exemption~~ in this paragraph shall be
174 given retroactive application and shall apply to all photographs

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175 or video or audio recordings that depict or record the killing
176 of a law enforcement officer who was acting in accordance with
177 his or her official duties, the killing of a victim of mass
178 violence, ~~or~~ the killing of a minor, or the suicide of a person,
179 regardless of whether the killing of the person occurred before,
180 on, or after May 23, 2019. However, nothing in this paragraph is
181 intended to, nor may be construed to, overturn or abrogate or
182 alter any existing orders duly entered into by any court of this
183 state, as of the effective date of this act, which restrict or
184 limit access to any photographs or video or audio recordings
185 that depict or record the killing of a law enforcement officer
186 who was acting in accordance with his or her official duties,
187 the killing of a victim of mass violence, ~~or~~ the killing of a
188 minor, or the suicide of a person.

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

191 9. This paragraph is subject to the Open Government Sunset
192 Review Act in accordance with s. 119.15 and shall stand repealed
193 on October 2, 2029 ~~2028~~, unless reviewed and saved from repeal
194 through reenactment by the Legislature.

195 Section 2. The Legislature finds that it is a public
196 necessity that photographs, video, and audio recordings that
197 depict or record the suicide of a person be made confidential
198 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
199 Article I of the State Constitution and that such exemption be
200 applied retroactively. The Legislature finds that photographs,
201 video, and audio recordings that depict or record the suicide of
202 a person render graphic and often disturbing visual or aural
203 representations of the deceased. Such photographs, video, and

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204 audio recordings provide a view of the deceased in the final
205 moments of life, in which they are often experiencing severe
206 symptoms of depression or other mental illness, and may depict
207 graphic and gruesome self-inflicted wounds. As such,
208 photographs, video, and audio recordings that depict or record
209 the suicide of a person are highly sensitive representations of
210 the deceased which, if heard, viewed, copied, or publicized,
211 could result in trauma, sorrow, humiliation, or emotional injury
212 to the immediate family of the deceased and detract from the
213 memory of the deceased. The Legislature recognizes that the
214 existence of the Internet and the proliferation of personal
215 computers and cellular telephones throughout the world
216 encourages and promotes the wide dissemination of such
217 photographs, video, and audio recordings and that widespread
218 unauthorized dissemination of such photographs, video, and audio
219 recordings would subject the immediate family of the deceased to
220 continuous injury. The Legislature further finds that such
221 photographs, video, and audio recordings that depict or record
222 the suicide of a person are harmful to the public. The release
223 of such photographs, video, and audio recordings may trigger
224 persons who have a mental illness or who are experiencing severe
225 depression to consider suicide.

226 Section 3. Section 406.135, Florida Statutes, is amended to
227 read:

228 406.135 Autopsies; confidentiality of photographs and video
229 and audio recordings; confidentiality of reports of minor
230 victims of domestic violence; exemption.—

231 (1) As used in this section, the term:

232 (a) "Domestic violence" has the same meaning as in s.

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233 741.28.

234 (b) "Medical examiner" means any district medical examiner,
235 associate medical examiner, or substitute medical examiner
236 acting pursuant to this chapter, as well as any employee,
237 deputy, or agent of a medical examiner or any other person who
238 may obtain possession of a report, photograph, or audio or video
239 recording of an autopsy in the course of assisting a medical
240 examiner in the performance of his or her official duties.

241 (c) "Minor" means a person younger than 18 years of age who
242 has not had the disability of nonage removed pursuant to s.
243 743.01 or s. 743.015.

244 (2) (a) A photograph or video or audio recording of an
245 autopsy held by a medical examiner is confidential and exempt
246 from s. 119.07(1) and s. 24(a), Art. I of the State
247 Constitution, except that a surviving spouse may view and copy a
248 photograph or video recording or listen to or copy an audio
249 recording of the deceased spouse's autopsy. If there is no
250 surviving spouse, then the surviving parents shall have access
251 to such records. If there is no surviving spouse or parent, then
252 an adult child shall have access to such records.

253 (b) An autopsy report of a minor whose death was related to
254 an act of domestic violence held by a medical examiner is
255 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
256 of the State Constitution, except that a surviving parent of the
257 deceased minor may view and copy the autopsy report if the
258 surviving parent did not commit the act of domestic violence
259 which led to the minor's death.

260 (c) An autopsy report of a person whose manner of death was
261 suicide held by a medical examiner is confidential and exempt

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262 from s. 119.07(1) and s. 24(a), Art. I of the State
263 Constitution, except that a surviving spouse of the deceased may
264 view and copy the autopsy report. If there is no surviving
265 spouse, the surviving parents must have access to such records.
266 If there is no surviving spouse or parent, the adult children
267 and siblings must have access to such records.

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

271 (b) Notwithstanding subsection (2), a local governmental
272 entity, or a state or federal agency, in furtherance of its
273 official duties, pursuant to a written request, may:

274 1. View or copy a photograph or video recording or may
275 listen to or copy an audio recording of an autopsy; ~~and~~

276 2. View or copy an autopsy report of a minor whose death
277 was related to an act of domestic violence; ~~and-~~

278 3. View or copy an autopsy report of a person whose manner
279 of death was determined by a medical examiner to have been by
280 suicide.

281
282 Unless otherwise required in the performance of official duties,
283 the identity of the deceased shall remain confidential and
284 exempt.

285 (c) The custodian of the record, or his or her designee,
286 may not permit any other person, except an agent designated in
287 writing by the deceased's surviving relative with whom authority
288 rests to obtain such records, to view or copy an autopsy report
289 of a person whose manner of death was determined by a medical
290 examiner to have been by suicide, an autopsy report of a minor

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291 whose death was related to an act of domestic violence or a
292 photograph or video recording of an autopsy or listen to or copy
293 an audio recording of an autopsy without a court order.

294 (4) (a) The court, upon a showing of good cause, may issue
295 an order authorizing any person to view or copy an autopsy
296 report of a person whose manner of death was determined by a
297 medical examiner to have been by suicide, an autopsy report of a
298 minor whose death was related to an act of domestic violence or
299 a photograph or video recording of an autopsy or to listen to or
300 copy an audio recording of an autopsy and may prescribe any
301 restrictions or stipulations that the court deems appropriate.

302 (b) In determining good cause, the court shall consider
303 whether such disclosure is necessary for the public evaluation
304 of governmental performance; the seriousness of the intrusion
305 into the family's right to privacy and whether such disclosure
306 is the least intrusive means available; and the availability of
307 similar information in other public records, regardless of form.

308 (c) In all cases, the viewing, copying, listening to, or
309 other handling of an autopsy report of a person whose manner of
310 death was determined by a medical examiner to have been by
311 suicide, an autopsy report of a minor whose death was related to
312 an act of domestic violence or a photograph or video or audio
313 recording of an autopsy must be under the direct supervision of
314 the custodian of the record or his or her designee.

315 (5) (a) A surviving spouse must be given reasonable notice
316 of a petition filed with the court to view or copy a photograph
317 or video recording of an autopsy or a petition to listen to or
318 copy an audio recording, a copy of such petition, and reasonable
319 notice of the opportunity to be present and heard at any hearing

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320 on the matter. If there is no surviving spouse, then such notice
321 must be given to the parents of the deceased, and if there is no
322 living parent, then to the adult children of the deceased.

323 (b) For an autopsy report of a minor whose death was
324 related to an act of domestic violence, any surviving parent who
325 did not commit the act of domestic violence which led to the
326 minor's death must be given reasonable notice of a petition
327 filed with the court to view or copy the autopsy report, a copy
328 of such petition, and reasonable notice of the opportunity to be
329 present and heard at any hearing on the matter.

330 (6) (a) Any custodian of an autopsy report of a person whose
331 manner of death was determined by a medical examiner to have
332 been by suicide, an autopsy report of a minor whose death was
333 related to an act of domestic violence or a photograph or video
334 or audio recording of an autopsy who willfully and knowingly
335 violates this section commits a felony of the third degree,
336 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

341 (7) A criminal or administrative proceeding is exempt from
342 this section but is subject to all other provisions of chapter
343 119 unless otherwise exempted. This section does not prohibit a
344 court in a criminal or administrative proceeding upon good cause
345 shown from restricting or otherwise controlling the disclosure
346 of an autopsy, crime scene, or similar report, photograph, or
347 video or audio recording in the manner prescribed herein.

348 (8) The exemptions in this section shall be given

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349 retroactive application.

350 (9) This section is subject to the Open Government Sunset
351 Review Act in accordance with s. 119.15 and shall stand repealed
352 on October 2, 2029 ~~2028~~, unless reviewed and saved from repeal
353 through reenactment by the Legislature.

354 Section 4. The Legislature finds that it is a public
355 necessity that autopsy reports of a person whose manner of death
356 was suicide which are held by a medical examiner be made
357 confidential and exempt from s. 119.07(1), Florida Statutes, and
358 s. 24(a), Article I of the State Constitution. The Legislature
359 finds that autopsy reports describe the deceased in a graphic
360 and often disturbing fashion and that autopsy reports of a
361 person whose manner of death was suicide may describe the
362 deceased with graphic and gruesome self-inflicted wounds. As
363 such, these reports often contain highly sensitive descriptions
364 of the deceased which if heard, viewed, copied, or publicized
365 could result in trauma, sorrow, humiliation, or emotional injury
366 to the immediate family of the deceased and detract from the
367 memory of the deceased. The Legislature recognizes that the
368 existence of the Internet and the proliferation of personal
369 computers and cellular telephones throughout the world
370 encourages and promotes the wide dissemination of such reports
371 and that widespread unauthorized dissemination of such reports
372 would subject the immediate family of the deceased to continuous
373 injury. The Legislature further finds that the exemption
374 provided in this act should be given retroactive application
375 because it is remedial in nature.

376 Section 5. This act shall take effect upon becoming a law.