

**By** the Committee on Governmental Oversight and Accountability;  
and Senators Grall and Book

585-02138-24

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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 notice requirements; providing  
12      criminal penalties; providing construction; providing  
13      for retroactive application; providing for future  
14      legislative review and repeal of the exemption;  
15      providing a statement of public necessity; amending s.  
16      406.135, F.S.; creating an exemption from public  
17      records requirements for autopsy reports of suicide  
18      victims; providing exceptions; requiring that any  
19      viewing, copying, listening to, or other handling of  
20      such autopsy reports be under the direct supervision  
21      of the custodian of the record or his or her designee;  
22      providing notice requirements; providing criminal  
23      penalties; providing construction; providing for  
24      retroactive application; providing for future  
25      legislative review and repeal of the exemption;  
26      providing a statement of public necessity; providing  
27      an effective date.

28  
29   Be It Enacted by the Legislature of the State of Florida:

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

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

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

d. "Suicide of a person" means events that depict the suicide of a person, the body of a person whose manner of death

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59 was suicide, or any portion of such person's body.

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

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

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

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88 surviving parents must have access to such records. If there is  
89 no surviving spouse or parent, the adult children and siblings  
90 must have access to such records. This section does not preclude  
91 a surviving spouse, parent, adult child, or sibling of the  
92 victim from sharing or publicly releasing such photograph or  
93 video or audio recording.

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

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

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

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

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117 to or copy an audio recording that depicts or records the  
118 killing of a law enforcement officer who was acting in  
119 accordance with his or her official duties, the killing of a  
120 victim of mass violence, ~~or~~ the killing of a minor, or the  
121 suicide of a person and may prescribe any restrictions or  
122 stipulations that the court deems appropriate.

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

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

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

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

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

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

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146 spouse, such notice must be given to the parents of the deceased  
147 and, if there is no surviving parent, to the adult children of  
148 the deceased.

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

155 c. A surviving spouse shall be given reasonable notice of a  
156 petition filed with the court to view or copy a photograph or  
157 video recording that depicts or records the suicide of a person,  
158 or to listen to or copy any such audio recording; a copy of such  
159 petition; and reasonable notice of the opportunity to be present  
160 and heard at any hearing on the matter. If there is no surviving  
161 spouse, such notice must be given to the parents of the deceased  
162 and, if there is no surviving parent, to the adult children and  
163 siblings of the deceased.

164 6.a. Any custodian of a photograph or video or audio  
165 recording that depicts or records the killing of a law  
166 enforcement officer who was acting in accordance with his or her  
167 official duties, the killing of a victim of mass violence, ~~or~~  
168 the killing of a minor, or the suicide of a person who willfully  
169 and knowingly violates this paragraph commits a felony of the  
170 third degree, punishable as provided in s. 775.082, s. 775.083,  
171 or s. 775.084.

172 b. Any person who willfully and knowingly violates a court  
173 order issued pursuant to this paragraph commits a felony of the  
174 third degree, punishable as provided in s. 775.082, s. 775.083,

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175 or s. 775.084.

176 c. A criminal or administrative proceeding is exempt from  
177 this paragraph but, unless otherwise exempted, is subject to all  
178 other provisions of chapter 119; however, this paragraph does  
179 not prohibit a court in a criminal or administrative proceeding  
180 upon good cause shown from restricting or otherwise controlling  
181 the disclosure of a killing, crime scene, or similar photograph  
182 or video or audio recording in the manner prescribed in this  
183 paragraph.

184 7. The exemptions ~~exemption~~ in this paragraph shall be  
185 given retroactive application and shall apply to all photographs  
186 or video or audio recordings that depict or record the killing  
187 of a law enforcement officer who was acting in accordance with  
188 his or her official duties, the killing of a victim of mass  
189 violence, ~~or~~ the killing of a minor, or the suicide of a person,  
190 regardless of whether the killing or suicide of the person  
191 occurred before, on, or after May 23, 2019. However, nothing in  
192 this paragraph is intended to, nor may be construed to, overturn  
193 or abrogate or alter any existing orders duly entered into by  
194 any court of this state, as of the effective date of this act,  
195 which restrict or limit access to any photographs or video or  
196 audio recordings that depict or record the killing of a law  
197 enforcement officer who was acting in accordance with his or her  
198 official duties, the killing of a victim of mass violence, ~~or~~  
199 the killing of a minor, or the suicide of a person.

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

202 9. This paragraph is subject to the Open Government Sunset  
203 Review Act in accordance with s. 119.15 and shall stand repealed

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204 on October 2, 2029 ~~2028~~, unless reviewed and saved from repeal  
205 through reenactment by the Legislature.

206       Section 2. The Legislature finds that it is a public  
207 necessity that photographs, video, and audio recordings that  
208 depict or record the suicide of a person be made confidential  
209 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
210 Article I of the State Constitution and that such exemption be  
211 applied retroactively. The Legislature finds that photographs,  
212 video, and audio recordings that depict or record the suicide of  
213 a person render graphic and often disturbing visual or aural  
214 representations of the deceased. Such photographs, video, and  
215 audio recordings provide a view of the deceased in the final  
216 moments of life, in which they are often experiencing severe  
217 symptoms of depression or other mental illness, and may depict  
218 graphic and gruesome self-inflicted wounds. As such,  
219 photographs, video, and audio recordings that depict or record  
220 the suicide of a person are highly sensitive representations of  
221 the deceased which, if heard, viewed, copied, or publicized,  
222 could result in trauma, sorrow, humiliation, or emotional injury  
223 to the immediate family of the deceased and detract from the  
224 memory of the deceased. The Legislature recognizes that the  
225 existence of the Internet and the proliferation of personal  
226 computers and cellular telephones throughout the world  
227 encourages and promotes the wide dissemination of such  
228 photographs, video, and audio recordings and that widespread  
229 unauthorized dissemination of such photographs, video, and audio  
230 recordings would subject the immediate family of the deceased to  
231 continuous injury. The Legislature further finds that such  
232 photographs, video, and audio recordings that depict or record

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233 the suicide of a person are harmful to the public. The release  
234 of such photographs, video, and audio recordings may trigger  
235 persons who have a mental illness or who are experiencing severe  
236 depression to consider suicide. The Legislature further finds  
237 that the exemption provided in this act should be given  
238 retroactive application because it is remedial in nature.

239 Section 3. Section 406.135, Florida Statutes, is amended to  
240 read:

241 406.135 Autopsies; confidentiality of photographs and video  
242 and audio recordings; confidentiality of reports of minor  
243 victims of domestic violence; exemption.—

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

245 (a) "Domestic violence" has the same meaning as in s.  
246 741.28.

247 (b) "Medical examiner" means any district medical examiner,  
248 associate medical examiner, or substitute medical examiner  
249 acting pursuant to this chapter, as well as any employee,  
250 deputy, or agent of a medical examiner or any other person who  
251 may obtain possession of a report, photograph, or audio or video  
252 recording of an autopsy in the course of assisting a medical  
253 examiner in the performance of his or her official duties.

254 (c) "Minor" means a person younger than 18 years of age who  
255 has not had the disability of nonage removed pursuant to s.  
256 743.01 or s. 743.015.

257 (2) (a) A photograph or video or audio recording of an  
258 autopsy held by a medical examiner is confidential and exempt  
259 from s. 119.07(1) and s. 24(a), Art. I of the State  
260 Constitution, except that a surviving spouse may view and copy a  
261 photograph or video recording or listen to or copy an audio

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262 recording of the deceased spouse's autopsy. If there is no  
263 surviving spouse, then the surviving parents shall have access  
264 to such records. If there is no surviving spouse or parent, then  
265 an adult child shall have access to such records.

266 (b) An autopsy report of a minor whose death was related to  
267 an act of domestic violence held by a medical examiner is  
268 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
269 of the State Constitution, except that a surviving parent of the  
270 deceased minor may view and copy the autopsy report if the  
271 surviving parent did not commit the act of domestic violence  
272 which led to the minor's death.

273 (c) An autopsy report of a person whose manner of death was  
274 suicide held by a medical examiner is confidential and exempt  
275 from s. 119.07(1) and s. 24(a), Art. I of the State  
276 Constitution, except that a surviving spouse of the deceased may  
277 view and copy the autopsy report. If there is no surviving  
278 spouse, the surviving parents must have access to such records.  
279 If there is no surviving spouse or parent, the adult children  
280 and siblings must have access to such records.

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

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

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

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

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291 3. View or copy an autopsy report of a person whose manner  
292 of death was determined by a medical examiner to have been by  
293 suicide.

294  
295 Unless otherwise required in the performance of official duties,  
296 the identity of the deceased shall remain confidential and  
297 exempt.

298 (c) The custodian of the record, or his or her designee,  
299 may not permit any other person, except an agent designated in  
300 writing by the deceased's surviving relative with whom authority  
301 rests to obtain such records, to view or copy an autopsy report  
302 of a person whose manner of death was determined by a medical  
303 examiner to have been by suicide, an autopsy report of a minor  
304 whose death was related to an act of domestic violence, or a  
305 photograph or video recording of an autopsy or listen to or copy  
306 an audio recording of an autopsy without a court order.

307 (4) (a) The court, upon a showing of good cause, may issue  
308 an order authorizing any person to view or copy an autopsy  
309 report of a person whose manner of death was determined by a  
310 medical examiner to have been by suicide, an autopsy report of a  
311 minor whose death was related to an act of domestic violence, or  
312 a photograph or video recording of an autopsy or to listen to or  
313 copy an audio recording of an autopsy and may prescribe any  
314 restrictions or stipulations that the court deems appropriate.

315 (b) In determining good cause, the court shall consider  
316 whether such disclosure is necessary for the public evaluation  
317 of governmental performance; the seriousness of the intrusion  
318 into the family's right to privacy and whether such disclosure  
319 is the least intrusive means available; and the availability of

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320 similar information in other public records, regardless of form.

321 (c) In all cases, the viewing, copying, listening to, or  
322 other handling of an autopsy report of a person whose manner of  
323 death was determined by a medical examiner to have been by  
324 suicide, an autopsy report of a minor whose death was related to  
325 an act of domestic violence, or a photograph or video or audio  
326 recording of an autopsy must be under the direct supervision of  
327 the custodian of the record or his or her designee.

328 (5) (a) A surviving spouse must be given reasonable notice  
329 of a petition filed with the court to view or copy a photograph  
330 or video recording of an autopsy or a petition to listen to or  
331 copy an audio recording, a copy of such petition, and reasonable  
332 notice of the opportunity to be present and heard at any hearing  
333 on the matter. If there is no surviving spouse, then such notice  
334 must be given to the parents of the deceased, and if there is no  
335 living parent, then to the adult children of the deceased.

336 (b) For an autopsy report of a minor whose death was  
337 related to an act of domestic violence, any surviving parent who  
338 did not commit the act of domestic violence which led to the  
339 minor's death must be given reasonable notice of a petition  
340 filed with the court to view or copy the autopsy report, a copy  
341 of such petition, and reasonable notice of the opportunity to be  
342 present and heard at any hearing on the matter.

343 (c) A surviving spouse must be given reasonable notice of a  
344 petition filed with the court to view or copy an autopsy report  
345 of a person whose manner of death was by suicide, a copy of such  
346 petition, and reasonable notice of the opportunity to be present  
347 and heard at any hearing on the matter. If there is no surviving  
348 spouse, then such notice must be given to the parents of the

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349 deceased, and if there is no living parent, then to the adult  
350 children and siblings of the deceased.

351 (6) (a) Any custodian of an autopsy report of a person whose  
352 manner of death was determined by a medical examiner to have  
353 been by suicide, an autopsy report of a minor whose death was  
354 related to an act of domestic violence or a photograph or video  
355 or audio recording of an autopsy who willfully and knowingly  
356 violates this section commits a felony of the third degree,  
357 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

362 (7) A criminal or administrative proceeding is exempt from  
363 this section but is subject to all other provisions of chapter  
364 119 unless otherwise exempted. This section does not prohibit a  
365 court in a criminal or administrative proceeding upon good cause  
366 shown from restricting or otherwise controlling the disclosure  
367 of an autopsy, crime scene, or similar report, photograph, or  
368 video or audio recording in the manner prescribed herein.

369 (8) The exemptions in this section shall be given  
370 retroactive application.

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

375 Section 4. The Legislature finds that it is a public  
376 necessity that autopsy reports of a person whose manner of death  
377 was suicide which are held by a medical examiner be made

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378 confidential and exempt from s. 119.07(1), Florida Statutes, and  
379 s. 24(a), Article I of the State Constitution. The Legislature  
380 finds that autopsy reports describe the deceased in a graphic  
381 and often disturbing fashion and that autopsy reports of a  
382 person whose manner of death was suicide may describe the  
383 deceased with graphic and gruesome self-inflicted wounds. As  
384 such, these reports often contain highly sensitive descriptions  
385 of the deceased which if heard, viewed, copied, or publicized  
386 could result in trauma, sorrow, humiliation, or emotional injury  
387 to the immediate family of the deceased and detract from the  
388 memory of the deceased. The Legislature recognizes that the  
389 existence of the Internet and the proliferation of personal  
390 computers and cellular telephones throughout the world  
391 encourages and promotes the wide dissemination of such reports  
392 and that widespread unauthorized dissemination of such reports  
393 would subject the immediate family of the deceased to continuous  
394 injury. The Legislature further finds that the exemption  
395 provided in this act should be given retroactive application  
396 because it is remedial in nature.

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