

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.