

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:

30

31 Section 1. Paragraph (p) of subsection (2) of section
 32 119.071, Florida Statutes, is amended to read:

33 119.071 General exemptions from inspection or copying of
 34 public records.—

35 (2) AGENCY INVESTIGATIONS.—

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

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

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

51 of a victim under the age of 18 who has been killed.

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

57 d. "Suicide of a person" means events that depict the
58 suicide of a person, the body of a person whose manner of death
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 must ~~shall~~ have access to such
69 records. If there is no surviving spouse or parent, the adult
70 children must ~~shall~~ have access to such records. Nothing in this
71 sub-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
75 or records the killing of a minor is confidential and exempt

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

83 | c. A photograph or video or audio recording that depicts
84 | or records the suicide of a person is confidential and exempt
85 | from s. 119.07(1) and s. 24(a), Art. I of the State
86 | Constitution, except that a surviving spouse of the deceased may
87 | view and copy any such photograph or video recording or listen
88 | to or copy any such audio recording. If there is no surviving
89 | spouse, the surviving parents must have access to such records.
90 | If there is no surviving spouse or parent, the adult children
91 | and siblings must have access to such records. This section does
92 | not preclude a surviving spouse, parent, adult child, or sibling
93 | of the victim from sharing or publicly releasing such photograph
94 | or video or audio recording.

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

98 | b. Notwithstanding subparagraph 2., a local governmental
99 | entity, or a state or federal agency, in furtherance of its
100 | official duties, pursuant to a written request, may view or copy

101 a photograph or video recording or may listen to or copy an
 102 audio recording of the killing of a law enforcement officer who
 103 was acting in accordance with his or her official duties, the
 104 killing of a victim of mass violence, ~~or~~ the killing of a minor,
 105 or the suicide of a person, and, unless otherwise required in
 106 the performance of its duties, the identity of the deceased
 107 shall remain confidential and exempt.

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

112 4.a. The court, upon a showing of good cause, may issue an
 113 order authorizing any person to view or copy a photograph or
 114 video recording that depicts or records the killing of a law
 115 enforcement officer who was acting in accordance with his or her
 116 official duties, the killing of a victim of mass violence, ~~or~~
 117 the killing of a minor, or the suicide of a person or to listen
 118 to or copy an audio recording that depicts or records the
 119 killing of a law enforcement officer who was acting in
 120 accordance with his or her official duties, the killing of a
 121 victim of mass violence, ~~or~~ the killing of a minor, or the
 122 suicide of a person and may prescribe any restrictions or
 123 stipulations that the court deems appropriate.

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

125 (I) Whether such disclosure is necessary for the public

126 evaluation of governmental performance;

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

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

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

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

150 b. A surviving parent must be given reasonable notice of a

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

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

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

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

176 or s. 775.084.

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

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

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

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

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

226 the Internet and the proliferation of personal computers and
227 cellular telephones throughout the world encourages and promotes
228 the wide dissemination of such photographs and video and audio
229 recordings and that widespread unauthorized dissemination of
230 such photographs and video and audio recordings would subject
231 the immediate family of the deceased to continuous injury. The
232 Legislature further finds that such photographs and video and
233 audio recordings that depict or record the suicide of a person
234 are harmful to the public. The release of such photographs and
235 video and audio recordings may trigger persons who have a mental
236 illness or who are experiencing severe depression to consider
237 suicide. The Legislature further finds that the exemption
238 provided in this act should be given retroactive application
239 because it is remedial in nature.

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

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

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

246 (a) "Domestic violence" has the same meaning as in s.
247 741.28.

248 (b) "Medical examiner" means any district medical
249 examiner, associate medical examiner, or substitute medical
250 examiner acting pursuant to this chapter, as well as any

251 employee, deputy, or agent of a medical examiner or any other
252 person who may obtain possession of a report, photograph, or
253 audio or video recording of an autopsy in the course of
254 assisting a medical examiner in the performance of his or her
255 official duties.

256 (c) "Minor" means a person younger than 18 years of age
257 who has not had the disability of nonage removed pursuant to s.
258 743.01 or s. 743.015.

259 (2)(a) A photograph or video or audio recording of an
260 autopsy held by a medical examiner is confidential and exempt
261 from s. 119.07(1) and s. 24(a), Art. I of the State
262 Constitution, except that a surviving spouse may view and copy a
263 photograph or video recording or listen to or copy an audio
264 recording of the deceased spouse's autopsy. If there is no
265 surviving spouse, then the surviving parents shall have access
266 to such records. If there is no surviving spouse or parent, then
267 an adult child shall have access to such records.

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

275 (c) An autopsy report of a person whose manner of death

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

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

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

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

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

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

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

300 (c) The custodian of the record, or his or her designee,

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

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

317 (b) In determining good cause, the court shall consider
318 whether such disclosure is necessary for the public evaluation
319 of governmental performance; the seriousness of the intrusion
320 into the family's right to privacy and whether such disclosure
321 is the least intrusive means available; and the availability of
322 similar information in other public records, regardless of form.

323 (c) In all cases, the viewing, copying, listening to, or
324 other handling of an autopsy report of a person whose manner of
325 death was determined by a medical examiner to have been by

326 suicide, an autopsy report of a minor whose death was related to
327 an act of domestic violence, or a photograph or video or audio
328 recording of an autopsy must be under the direct supervision of
329 the custodian of the record or his or her designee.

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

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

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

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

353 (6) (a) Any custodian of an autopsy report of a person
354 whose manner of death was determined by a medical examiner to
355 have been by suicide, an autopsy report of a minor whose death
356 was related to an act of domestic violence, or a photograph or
357 video or audio recording of an autopsy who willfully and
358 knowingly violates this section commits a felony of the third
359 degree, punishable as provided in s. 775.082, s. 775.083, or s.
360 775.084.

361 (b) Any person who willfully and knowingly violates a
362 court order issued pursuant to this section commits a felony of
363 the third degree, punishable as provided in s. 775.082, s.
364 775.083, or s. 775.084.

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

372 (8) The exemptions in this section shall be given
373 retroactive application.

374 (9) This section is subject to the Open Government Sunset
375 Review Act in accordance with s. 119.15 and shall stand repealed

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

378 Section 4. The Legislature finds that it is a public
379 necessity that autopsy reports of a person whose manner of death
380 was suicide which are held by a medical examiner be made
381 confidential and exempt from s. 119.07(1), Florida Statutes, and
382 s. 24(a), Article I of the State Constitution. The Legislature
383 finds that autopsy reports describe the deceased in a graphic
384 and often disturbing fashion and that autopsy reports of a
385 person whose manner of death was suicide may describe the
386 deceased with graphic and gruesome self-inflicted wounds. As
387 such, these reports often contain highly sensitive descriptions
388 of the deceased which if heard, viewed, copied, or publicized
389 could result in trauma, sorrow, humiliation, or emotional injury
390 to the immediate family of the deceased and detract from the
391 memory of the deceased. The Legislature recognizes that the
392 existence of the Internet and the proliferation of personal
393 computers and cellular telephones throughout the world
394 encourages and promotes the wide dissemination of such reports
395 and that widespread unauthorized dissemination of such reports
396 would subject the immediate family of the deceased to continuous
397 injury. The Legislature further finds that the exemption
398 provided in this act should be given retroactive application
399 because it is remedial in nature.

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