

CHAPTER 2024-18

Committee Substitute for Senate Bill No. 474

An act relating to public records; amending s. 119.071, F.S.; defining the term “suicide of a person”; creating an exemption from public records requirements for a photograph or video or audio recording of the suicide of a person; providing exceptions; requiring that any viewing, copying, listening to, or other handling of such photograph or video or audio recording be under the direct supervision of the custodian of the record or his or her designee; providing notice requirements; providing criminal penalties; providing construction; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; amending s. 406.135, F.S.; creating an exemption from public records requirements for autopsy reports of suicide victims; providing exceptions; requiring that any viewing, copying, listening to, or other handling of such autopsy reports be under the direct supervision of the custodian of the record or his or her designee; providing notice requirements; providing criminal penalties; providing construction; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

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

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

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

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

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

b. Notwithstanding subparagraph 2., a local governmental entity, or a state or federal agency, in furtherance of its official duties, pursuant to a written request, may view or copy a photograph or video recording or may listen to or copy an audio recording of the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass violence, ~~or the killing of a minor, or the suicide of a person,~~

and, unless otherwise required in the performance of its duties, the identity of the deceased shall remain confidential and exempt.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 2. The Legislature finds that it is a public necessity that photographs, video, and audio recordings that depict or record the suicide of a person be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution and that such exemption be applied retroactively. The Legislature finds that photographs, video, and audio recordings that depict or record the suicide of a person render graphic and often disturbing visual or aural representations of the deceased. Such photographs, video, and audio recordings provide a view of the deceased in the final moments of life, in which they are often experiencing severe symptoms of depression or other mental illness, and may depict graphic and gruesome self-inflicted wounds. As such, photographs, video, and audio recordings that depict or record the suicide of a person are highly sensitive representations of the deceased which, if heard, viewed, copied, or publicized, could result in trauma, sorrow, humiliation, or emotional injury to the immediate family of the deceased and detract from the memory of the deceased. The Legislature recognizes that the existence of the Internet and the proliferation of personal computers and cellular telephones throughout the world encourages and promotes the wide dissemination of such photographs, video, and audio recordings and that widespread unauthorized dissemination of such photographs, video, and audio recordings would subject the immediate family of the deceased to continuous injury. The Legislature further finds that such photographs, video, and audio recordings that depict or record the suicide of a person are harmful to the public. The release of such photographs, video, and audio recordings may trigger persons who have a mental illness or who are experiencing severe depression to consider suicide. The Legislature further finds that the exemption provided in this act should be given retroactive application because it is remedial in nature.

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

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

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

(a) “Domestic violence” has the same meaning as in s. 741.28.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) A surviving spouse must be given reasonable notice of a petition filed with the court to view or copy an autopsy report of a person whose manner of death was by suicide, a copy of such petition, and reasonable notice of the opportunity to be present and heard at any hearing on the matter. If there is no surviving spouse, then such notice must be given to the parents of the deceased, and if there is no living parent, then to the adult children and siblings of the deceased.

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

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

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

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

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

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

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

Approved by the Governor March 22, 2024.

Filed in Office Secretary of State March 22, 2024.