

1 A bill to be entitled
2 An act relating to public records; creating s. 925.131,
3 F.S.; providing definitions; providing an exemption from
4 public records law for investigative or crime scene
5 photographs, images, or video recordings of a deceased
6 person, a part of a deceased person, or any part of a
7 person's extreme, severe, or acute injuries held by a law
8 enforcement agency; providing exceptions for certain
9 relatives, injured persons, or their designees; permitting
10 a local or county governmental entity, or a state or
11 federal agency, in furtherance of its official duties, to
12 access such records pursuant to a written request to the
13 law enforcement agency in possession of such records,
14 although the confidential and exempt status of such
15 records shall be maintained; permitting any person to
16 view, but not copy, photograph, or remove, any record not
17 otherwise confidential or exempt from public records
18 provisions under the direct supervision of the custodian
19 of the record or his or her designee; requiring that the
20 viewing, copying, or other handling of such a record be
21 under the direct supervision of the custodian of the
22 record or his or her designee; permitting a court or law
23 enforcement agency head, upon a showing of good cause, to
24 authorize any person to view or copy such a record and
25 impose any restrictions or stipulations that it deems
26 appropriate; providing criminal penalties for violations
27 of statute or court order; providing for future
28 legislative review and repeal; providing a finding of

29 public necessity; providing for retroactive effect;
 30 providing a contingent effective date.
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32 Be It Enacted by the Legislature of the State of Florida:
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34 Section 1. Section 925.131, Florida Statutes, is created
 35 to read:

36 925.131 Public records exemption for certain law
 37 enforcement photographs, images, or video recordings.—

38 (1) For purposes of this section, the term:

39 (a) "Law enforcement agency" means any state agency or
 40 unit of government in this state that has authority to employ or
 41 appoint law enforcement officers, as defined in s. 943.10, as
 42 well as any employee, deputy, or agent of such an agency or any
 43 other person who may obtain possession of a restricted
 44 photograph, image, or recording in the course of assisting such
 45 an agency in the performance of its duties.

46 (b) "Restricted photograph, image, or recording" means an
 47 investigative or crime scene photograph, image, or video
 48 recording of a deceased person, a part of a deceased person, or
 49 any part of a person's extreme, severe, or acute injuries.

50 (2) (a) A restricted photograph, image, or recording held
 51 by a law enforcement agency is confidential and exempt from s.
 52 119.07(1) and s. 24(a), Art. I of the State Constitution, except
 53 that:

54 1. A restricted photograph, image, or recording of a
 55 deceased person may be viewed and copied by the surviving spouse

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56 of that person, by a surviving parent of that person, or by an
57 adult child of the person.

58 2. A person whose extreme, severe, or acute injury is
59 depicted in whole or in part in a restricted photograph, image,
60 or recording may view and copy such restricted photograph,
61 image, or recording.

62 (b) Any person authorized to obtain records under this
63 subsection may designate in writing an agent to obtain such
64 records on his or her behalf.

65 (c) Persons authorized under this subsection to obtain
66 such records shall be provided access thereto unless such
67 records are otherwise confidential or exempt from s. 119.07(1)
68 and s. 24(a), Art. I of the State Constitution.

69 (3) A local or county governmental entity, or a state or
70 federal agency, in furtherance of its official duties and
71 pursuant to a written request to the law enforcement agency in
72 possession of such records, may view or copy a restricted
73 photograph, image, or recording; however, the receiving entity
74 or agency shall maintain the confidential and exempt status of
75 the restricted photograph, image, or recording and shall protect
76 the identity of the deceased or injured person.

77 (4) Any person may view, but not copy, photograph, or
78 remove, any restricted photograph, image, or recording not
79 otherwise confidential or exempt from s. 119.07(1) and s. 24(a),
80 Art. I of the State Constitution, under the direct supervision
81 of the custodian of the record or his or her designee.

82 (5) Any viewing, copying, or other handling of a
83 restricted photograph, image, or recording must be under the

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84 direct supervision of the custodian of the record or his or her
85 designee.

86 (6) (a) The following are exceptions to the restrictions in
87 subsection (4) on copying photographs, images, or video
88 recordings of a deceased person, a part of a deceased person, or
89 any part of a person's extreme, severe, or acute injuries being
90 held confidential:

91 1. When the head of the law enforcement agency in this
92 state in possession of the photographs, images, or video
93 recordings has personally examined the photographs, images, or
94 video recordings and has determined in his or her discretion
95 that there is good cause for their release, they shall be
96 disseminated in accordance with his or her written instructions.
97 These instructions must name the party or parties that are
98 authorized to obtain the photographs, images, or video
99 recordings or a copy of them.

100 2. When a judge in a county or circuit in this state has
101 personally examined the photographs, images, or video recordings
102 and has determined in his or her judicial opinion that there is
103 good cause for their release, they shall be disseminated in
104 accordance with his or her written court order. The order must
105 name the party or parties that are authorized to obtain the
106 photographs, images, or video recordings or a copy of them.

107 (b) In determining good cause for purposes of paragraph
108 (a), the agency head or court shall consider whether such
109 disclosure is necessary for the public evaluation of
110 governmental performance, the seriousness of the intrusion into
111 the family's or injured person's right to privacy, whether such

112 disclosure is the least intrusive means available to enable
 113 public evaluation of governmental performance, and the
 114 availability of similar information in other public records,
 115 regardless of form.

116 (7) (a) It is unlawful for:

117 1. Any custodian or a designee of a custodian of a
 118 restricted photograph, image, or recording to willfully and
 119 knowingly violate a provision of this section; or

120 2. Any person to willfully and knowingly violate a court
 121 order or agency head's instructions issued pursuant to this
 122 section.

123 (b) Any person who violates paragraph (a) commits:

124 1. For the first violation, a misdemeanor of the first
 125 degree, punishable as provided in s. 775.082 or s. 775.083.

126 2. For a second or subsequent violation, a felony of the
 127 third degree, punishable as provided in s. 775.082, s. 775.083,
 128 or s. 775.084.

129 (8) This section is subject to the Open Government Sunset
 130 Review Act in accordance with s. 119.15 and shall stand repealed
 131 on October 2, 2015, unless reviewed and saved from repeal
 132 through reenactment by the Legislature.

133 Section 2. The Legislature finds that it is a public
 134 necessity that investigative or crime scene photographs, images,
 135 or video recordings of a deceased person, a part of a deceased
 136 person, or any part of a person's extreme, severe, or acute
 137 injuries be confidential and exempt from disclosure, with
 138 certain clearly defined exceptions. The Legislature finds that
 139 such photographs, images, or video recordings may depict or

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140 describe a deceased or suffering person in graphic and
141 disturbing fashion. Such photographs, images, or video
142 recordings, if copied, distributed, or publicized, could result
143 in trauma, sorrow, humiliation, or emotional injury to the
144 individual depicted or his or her immediate family. If the
145 individual is deceased, such dissemination could also cause
146 injury to the memory of the deceased. The Legislature notes that
147 the existence of the Internet and the proliferation of personal
148 computers throughout the world encourages and promotes the wide
149 dissemination of photographs, images, and video recordings 24
150 hours a day and that widespread unauthorized dissemination of
151 photographs, images, and video recordings would subject a
152 suffering individual and the immediate family of a deceased or
153 suffering individual to continuous injury. The Legislature
154 further notes that there continue to be other types of available
155 information, such as police reports, that are less intrusive and
156 injurious and that continue to provide for public oversight. The
157 Legislature further finds that the exemption provided in this
158 act should be given retroactive application because it is
159 remedial in nature.

160 Section 3. This act shall apply to all photographs,
161 images, or video recordings subject to its terms regardless of
162 whether they were created before, on, or after the effective
163 date of this act.

164 Section 4. This act shall take effect on the same date
165 that HB 647 or similar legislation takes effect, if such
166 legislation is enacted in the same legislative session or an
167 extension thereof and becomes law.