

Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO

House Bill No. 70

BY: Committee

1 **AMEND** by deleting lines 48 through 132 in its entirety and
2 insert in lieu thereof, the following:

3 (5) (a) (i) For purposes of this subsection (5), the terms
4 "medical examiner" and "custodian of record" means any district
5 medical examiner or coroner as defined in Section 41-61-53, as
6 well as any employee, deputy, or agent of a medical examiner or
7 any other person who may obtain possession of a photograph or
8 audio or video recording of an autopsy in the course of assisting
9 a medical examiner in the performance of his or her official
10 duties.

11 (ii) For purposes of this subsection "surviving
12 relative" means and includes in the following order of priority,
13 the spouse of the deceased, the surviving parents if there is no
14 surviving spouse, an adult child of the deceased if there are no



15 surviving parents or any surviving relative if all others named
16 above are deceased.

17 (b) Except as otherwise provided in paragraph (c), a
18 photograph, video or audio recording of an autopsy shall be
19 confidential and may only be viewed, listened to or copied by a
20 surviving relative as defined by this subsection (5) and only in
21 the order provided in such definition. The surviving relative may
22 designate an agent in writing to obtain such records.

23 The custodian of record, or his or her designee, may not
24 permit any other person, except an agent designated in writing by
25 the surviving relative with whom authority rests to view, listen,
26 copy or obtain such without a court order.

27 (c) A photograph, video or audio recording of an
28 autopsy may only be used in the following manner:

29 (i) A local governmental entity, or a state or
30 federal agency, in furtherance of its official duties, pursuant to
31 a written request, may view or copy a photograph or video
32 recording or may listen to or copy an audio recording of an
33 autopsy, and unless otherwise required in the performance of their
34 duties, the identity of the deceased shall remain confidential and
35 exempt.

36 (ii) 1. The court, upon a showing of good cause,
37 may issue an order authorizing any person to view or copy a
38 photograph or video recording of an autopsy or to listen to or
39 copy an audio recording of an autopsy and may prescribe any



40 restrictions or stipulations that the court deems appropriate. In
41 determining good cause, the court shall consider whether such
42 disclosure is necessary for the public evaluation of governmental
43 performance; the seriousness of the intrusion into the family's
44 right to privacy and whether such disclosure is the least
45 intrusive means available; and the availability of similar
46 information in other public records, regardless of form.

47 2. A surviving relative shall be given
48 reasonable notice of a petition filed with the court to view or
49 copy a photograph or video recording of an autopsy or a petition
50 to listen to or copy an audio recording, a copy of such petition,
51 and reasonable notice of the opportunity to be present and heard
52 at any hearing on the matter.

53 (iii) Any governmental or private participant of a
54 meeting of a multidisciplinary child protection team created under
55 Section 43-15-51 may use the autopsy information only as
56 authorized by Section 43-15-51.

57 (iv) A governmental organization may share victim
58 information with necessary persons to accomplish the job duties
59 or to satisfy statutory or constitutional requirements of
60 disclosure.

61 (v) A medical examiner or custodian of record may
62 use information from an autopsy for medical or scientific teaching
63 or training, teaching or training law enforcement personnel,
64 teaching or training attorneys, conferring with medical or



65 scientific experts in the field of forensic science or publication
66 in a scientific or medical journal or textbook only if the medical
67 examiner or custodian of record is in lawful possession of the
68 information used, and has redacted and removed all identifying
69 characteristics and information of the deceased, including, but
70 not limited to, the address, name, case number, medical record
71 number, social security information and any other uniquely
72 identifying information about the deceased.

73 (d) (i) Any custodian of the record who willfully and
74 knowingly violates the provisions of this subsection shall be
75 guilty of a felony punishable by a fine of Ten Thousand Dollars
76 (\$10,000.00), or imprisonment in the custody of the Department of
77 Corrections for one (1) year, or both.

78 (ii) Any person who willfully and knowingly
79 violates a court order issued pursuant to this section commits a
80 felony punishable upon conviction by a fine of Ten Thousand
81 Dollars (\$10,000.00), or imprisonment in the custody of the
82 Department of Corrections for one (1) year, or both.

83 (e) A criminal or administrative proceeding shall be
84 exempt from the restrictions of this subsection (5), provided,
85 however, that this paragraph (e) shall not be construed to
86 prohibit a court in a criminal or administrative proceeding upon
87 good cause shown from restricting or otherwise controlling the
88 disclosure of an autopsy, crime scene, or similar photograph or
89 video or audio recordings in the manner prescribed herein.



90 (f) In all cases, the viewing, copying, listening to or
91 other handling of a photograph or video or audio recording of an
92 autopsy must be under the direct supervision of the custodian of
93 record or his or her designee.

94 (g) Create a cause of action for damages against the
95 state or any of its agencies, officials, employees or political
96 subdivisions.

