

The House Committee on Governmental Affairs offers the following substitute to HB 1322:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 45-16-27 of the Official Code of Georgia Annotated, relating to
2 when inquest to be held, special situations, coroner's fee, issuance of subpoenas for books,
3 records, or papers, cost of copying, and limited disclosure of photographs, so as to provide
4 a short title; to provide for legislative findings; to provide that certain crime scene material
5 shall not be subject to the provisions of Article 4 of Chapter 18 of Title 50 of the Official
6 Code of Georgia Annotated; to provide for release to a victim's next of kin; to provide for
7 judicial action; to provide for notification; to provide for applicability; to provide an effective
8 date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Meredith Emerson Memorial Privacy Act."

12 **SECTION 2.**

13 The General Assembly finds that photographs or video recordings of certain crime scene
14 photos depict the deceased in graphic and often disturbing fashion. Such photographs or
15 video may depict or describe the deceased nude, grossly dismembered, or decapitated. As
16 such photographs or video recordings of an autopsy are highly sensitive depictions of the
17 deceased which, if viewed, copied, or publicized, could result in trauma, sorrow, humiliation,
18 or emotional injury to the immediate family of the deceased, as well as injury to the memory
19 of the deceased. The legislature finds that the existence of certain publications and the
20 Internet and the proliferation of personal computers throughout the world encourages and
21 promotes the wide dissemination of photographs and video recordings 24 hours a day and
22 that widespread unauthorized dissemination of such images would subject the immediate
23 family of the deceased to continuous injury.

SECTION 3.

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25 Code Section 45-16-27 of the Official Code of Georgia Annotated, relating to when inquest
26 to be held, special situations, coroner's fee, issuance of subpoenas for books, records, or
27 papers, cost of copying, and limited disclosure of photographs, is amended by adding a new
28 subsection to read as follows:

29 "(e)(1) Crime scene materials which depict or describe a deceased person in a nude,
30 bruised, bloodied, or broken state with open wounds or in a state of dismemberment or
31 decapitation, including photographs, video recordings, or audio recordings, shall not be
32 subject to disclosure pursuant to Article 4 of Chapter 18 of Title 50; provided, however,
33 that this subsection shall not prohibit disclosure of such material to the deceased's next
34 of kin or to an individual who has secured a written release from the next of kin. It shall
35 be the responsibility of the next of kin to show proof of the familial relationship. For
36 purposes of such access, the deceased's next of kin shall be:

37 (A) The spouse of the deceased if living;

38 (B) If there is no living spouse of the deceased, an adult child of the deceased; or

39 (C) If there is no living spouse or adult child, a parent of the deceased.

40 (2) Subject to the provisions of paragraph (3) of this subsection, in the case of closed
41 criminal investigations a superior court may order the disclosure of such photographs
42 upon findings in writing that disclosure is in the public interest and outweighs any
43 privacy interest that may be asserted by the deceased person's next of kin. In making
44 such determination, the court shall consider whether such disclosure is necessary for
45 public evaluation of governmental performance, the seriousness of the intrusion into the
46 family's right to privacy, and whether such disclosure is the least intrusive means
47 available considering the availability of similar information in other public records. In
48 any such action, the court shall review the photographs in question in camera with the
49 custodian of crime scene materials present and may condition any disclosure on such
50 condition as the court may deem necessary to accommodate the interests of the parties.

51 (3) Prior to releasing any crime scene material described in paragraph (1) of this
52 subsection, the custodian of such material shall give the deceased person's next of kin at
53 least two weeks' notice. No court shall order a disclosure pursuant to paragraph (2) of
54 this subsection which would disregard or shorten the duration of such notice requirement.

55 (4) The provisions of this subsection shall apply to all undisclosed material which is in
56 the custody of a state or local agency on the effective date of this subsection and to any
57 such material which comes into the custody of a state or local agency after such date."

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SECTION 4.

59 This Act shall become effective upon its approval by the Governor or upon its becoming law
60 without such approval.

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SECTION 5.

62 All laws and parts of laws in conflict with this Act are repealed.