AN ACT relating to autopsy records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 72 IS CREATED TO READ AS FOLLOWS:

(1) No autopsy photograph, other visual image in whatever form, video recording, or audio recording shall be open to the public. However, the state medical examiner, a coroner, or other public official in lawful possession of an autopsy photograph, other visual image in whatever form, video recording, or audio recording shall, upon written request, make an autopsy photograph, other visual image in whatever form, video recording, or audio recording available to:

(a) The spouse, children, and surviving parents, and the personal representative of the decedent;

(b) A law enforcement agency, any agency required by statute to conduct fatality reviews, county attorney, Commonwealth's attorney, public health officer, or coroner having a bona fide interest in the case;

(c) 1. A beneficiary under an insurance policy, for the purpose of processing a claim related to the decedent's death; or

2. An insurance company, with the written permission of the decedent's spouse or personal representative, for the purpose of processing a claim related to the decedent's death;

(d) An attorney in a matter arising out of the decedent's death;

(e) A physician or other medical professional licensed by the Commonwealth or another state or territory under the jurisdiction of the United States for the purposes of teaching or for publication in a scientific journal or textbook;

(f) A certified law enforcement instructor for the purpose of using the autopsy photograph, other visual image in whatever form, video recording, or audio

recording in bona fide law enforcement training;

(g) A county attorney, Commonwealth's attorney, public health officer, or coroner for the purpose of using the autopsy photograph, other visual image in whatever form, video recording, or audio recording in bona fide training;

(h) A licensed attorney for the purpose of using the autopsy photograph, other visual image in whatever form, video recording, or audio recording in a Kentucky continuing legal education program; and

(i) A person disseminating the image as part of an informative, expressive, or artistic work, whether analog or digital, that is:

1. Part of a play, book, magazine, newspaper, audiovisual work, or cable, broadcast, or satellite television program; or

2. Part of a work of art, including but not limited to news or commentary;

after a court has determined that the autopsy photograph, other visual image in whatever form, video recording, or audio recording is newsworthy or pertains to a matter of public concern or public interest.

(2) (a) Except as provided in paragraph (b) of this subsection, no medical examiner, coroner, or other public official in lawful possession of an autopsy photograph, other visual image in whatever form, video recording, or audio recording shall knowingly release that autopsy photograph or visual image, video recording, or audio recording to any person not specifically authorized in subsection (1) of this section.

(b) A medical examiner, coroner, or other public official in lawful possession of an autopsy photograph, other visual image in whatever form, video recording, or audio recording may, after redacting the decedent's name, address, and Social Security number, use such material for bona fide

teaching or training or may, after redacting the decedent's name, address, and Social Security number, publish such material in a scientific journal or textbook.

(3) No autopsy photograph, other visual image in whatever form, video recording, or audio recording supplied by the state medical examiner, coroner, or other public official in lawful possession of an autopsy photograph, other visual image in whatever form, video recording, or audio recording pursuant to paragraphs (b) to (h) of subsection (1) of this section shall be used for any purpose not specifically described therein.

(4) When the state medical examiner, coroner, or other public official in lawful possession of an autopsy photograph, other visual image in whatever form, video recording, or audio recording makes the autopsy photograph, other visual image in whatever form, video recording, or audio recording available pursuant to paragraph (e), (f), (g), or (h) of subsection (1) of this section, the name, address, and Social Security number of the decedent shall be redacted from the autopsy photograph, other visual image in whatever form, video recording, or audio recording.

(5) The provisions of this section shall not be construed to contravene or limit the production of records pursuant to the Rules of Civil Procedure or the Rules of Criminal Procedure.

(6) (a) The Circuit Court of the county where the decedent resided or, if the decedent was not a resident of the Commonwealth, in which an autopsy photograph, other visual image in whatever form, video recording, or audio recording is located may, upon a showing of good cause, issue an order authorizing any person to view or copy a photograph, other visual image in whatever form, video recording, or audio 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. In determining good cause, the court shall consider whether this disclosure is necessary for the public evaluation of governmental performance, whether the disclosure is the least intrusive means available, and the availability of similar information in other public records, regardless of form. In all cases, the viewing, copying, listening to, or other handling of a photograph, other visual image in whatever form, video recording, or audio recording of an autopsy shall be under the direct supervision of the custodian of the record or of the custodian's designee.

(b) The spouse or personal representative of the decedent shall be given reasonable notice of a petition filed with the court to view or copy a photograph, other visual image in whatever form, video recording, or audio recording of an autopsy or a petition to listen to or copy an audio recording, a copy of the petition, and reasonable notice of the opportunity to be present and heard at any hearing on the matter. If there is no surviving spouse or personal representative, then the notice shall be given to the deceased's adult children or, if the deceased has no adult children, to the surviving parents of the deceased, and, if there is no individual to represent the estate of the decedent, then the court shall proceed to schedule a hearing without giving such notice.

(c) Except as otherwise provided in this section, the Kentucky Revised Statutes, and applicable rules of court, proceedings arising under this subsection may, upon motion of one (1) of the parties, take precedence on the docket over all other causes and shall be assigned for a hearing and trial at the earliest practicable date.

➔Section 2. KRS 72.992 is amended to read as follows:

(1) Any person who violates KRS 72.020(1) or who interferes with the coroner in the

lawful performance of his duties shall be fined not less than two hundred fifty dollars ($250), or be confined in jail for not more than ninety (90) days, or both.

(2) Any coroner or deputy coroner who violates KRS 72.025 or 72.020 shall be guilty of willful neglect of official duties and shall be fined no more than one thousand dollars ($1,000) or forfeiture of office or both.

(3) Any law enforcement officer who violates KRS 72.020 shall be guilty of willful neglect of official duties and shall be fined no more than one thousand dollars ($1,000) or forfeiture of office or both.

(4) (a) 1. Except as provided in subparagraph 2. of this paragraph, any violation of Section 1 of this Act by an individual other than the surviving spouse, children, parents, or personal representative of the decedent shall result in a fine of not more than five hundred dollars ($500) for the first violation and not more than one thousand dollars ($1,000) for each subsequent violation.

2. Any violation of subsection (3) of Section 1 of this Act shall result in a fine which equals the greater of the appropriate fine provided for in subparagraph 1. of this paragraph or three (3) times any profits derived from violating subsection (3) of Section 1 of this Act.

(b) Any fine collected under paragraph (a) of this subsection shall be paid into the crime victims' compensation fund created under KRS 346.185.

➔Section 3. This Act is not meant to alter or change in any way the current law in the Commonwealth relating to the availability of autopsy records that are not otherwise specifically provided for in this Act.