

By the Committee on Transportation; and Senator Harrell

596-02086-22

20221614c1

1                   A bill to be entitled  
2           An act relating to public records; amending s.  
3           316.066, F.S.; revising an exemption from public  
4           records requirements for written reports of motor  
5           vehicle crashes; revising the agencies holding records  
6           to which the exemption applies; removing a time limit  
7           for the exemption; providing retroactive  
8           applicability; revising entities to which records may  
9           be made available; specifying a limitation on  
10          rediscovering crash reports by third parties; requiring  
11          certain entities to enter into a memorandum of  
12          understanding; revising conditions precedent to  
13          accessing a crash report; exempting certain  
14          computerized crash report data held by an agency from  
15          public records requirements; providing retroactive  
16          applicability; providing construction; providing for  
17          future legislative review and repeal of the  
18          exemptions; revising applicability of penalties;  
19          amending s. 316.650, F.S.; defining the term "driver  
20          information"; providing an exemption from public  
21          records requirements for driver information contained  
22          in a uniform traffic citation; providing retroactive  
23          applicability; authorizing the release of driver  
24          information under certain circumstances; providing for  
25          future legislative review and repeal of the exemption;  
26          revising a prohibition against the use of driver  
27          information for commercial solicitation purposes;  
28          providing statements of public necessity; providing an  
29          effective date.

596-02086-22

20221614c1

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

Section 1. Subsections (2) and (3) of section 316.066, Florida Statutes, are amended to read:

316.066 Written reports of crashes.—

(2) (a) Crash reports that reveal the identity of, home or employment telephone number or home or employment address of, or other personal information concerning the parties involved in the crash and that are held by an any agency as defined in s. 119.011 ~~that regularly receives or prepares information from or concerning the parties to motor vehicle crashes~~ are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such crash reports held by an agency before, on, or after the effective date of the exemption for a period of 60 days after the date the report is filed.

(b) 1. Crash reports held by an agency under paragraph (a) may be made ~~immediately~~ available to the parties involved in the crash, their legal representatives, their licensed insurance agents, their insurers or insurers to which they have applied for coverage, persons under contract with such insurers to provide claims or underwriting information, prosecutorial authorities, law enforcement agencies, the Department of Transportation, the Department of Health, county and municipal traffic operations, victim services programs, and any federal, state, or local governmental agency in carrying out its functions.

2. A crash report may also be made available to any third

596-02086-22

20221614c1

59 party acting on behalf of a person or entity authorized under  
60 subparagraph 1. to access the crash report, except that the  
61 third party may redisclose the crash report only to the person  
62 or entity authorized to access the crash report under  
63 subparagraph 1. on whose behalf the third party has sought the  
64 report ~~radio and television stations licensed by the Federal~~  
65 ~~Communications Commission, newspapers qualified to publish legal~~  
66 ~~notices under ss. 50.011 and 50.031, and, in accordance with~~  
67 ~~paragraph (f), free newspapers of general circulation, published~~  
68 ~~once a week or more often, of which at least 7,500 copies are~~  
69 ~~distributed by mail or by carrier as verified by a postal~~  
70 ~~statement or by a notarized printer's statement of press run,~~  
71 ~~which are intended to be generally distributed and circulated,~~  
72 ~~and which contain news of general interest with at least 10~~  
73 ~~pages per publication, available and of interest to the public~~  
74 ~~generally for the dissemination of news. For the purposes of~~  
75 ~~this section, the following products or publications are not~~  
76 ~~newspapers as referred to in this section: those intended~~  
77 ~~primarily for members of a particular profession or occupational~~  
78 ~~group; those with the primary purpose of distributing~~  
79 ~~advertising; and those with the primary purpose of publishing~~  
80 ~~names and other personal identifying information concerning~~  
81 ~~parties to motor vehicle crashes.~~

82 (c) A federal, state, or Any local governmental, state, or  
83 federal agency, or any private person or entity acting on behalf  
84 of a federal, state, or local governmental agency in carrying  
85 out its functions, which ~~that~~ is authorized to have access to  
86 crash reports by any provision of law shall be granted such  
87 access in the furtherance of the agency's statutory duties

596-02086-22

20221614c1

88 pursuant to a memorandum of understanding approved by the agency  
89 holding the crash reports which requires that personal  
90 information contained in the crash reports remain confidential  
91 and exempt.

92 (d) As a condition precedent to accessing a crash report  
93 ~~within 60 days after the date the report is filed~~, a person must  
94 submit to the agency that holds the crash report, in a format  
95 prescribed by the agency, present a valid driver license or  
96 ~~other photographic identification, proof of status, or~~  
97 ~~identification that demonstrates his or her qualifications to~~  
98 ~~access that information and file a written sworn statement~~  
99 attesting to the person's identity, authority to access the  
100 crash report under paragraph (b), and agreement to refrain from  
101 using the ~~with the state or local agency in possession of the~~  
102 ~~information stating that information from a crash report made~~  
103 ~~confidential and exempt by this section will not be used for any~~  
104 ~~commercial solicitation of accident victims,~~ or knowingly  
105 redisclosing the crash report disclosed to any third party for  
106 the purpose of such solicitation, ~~during the period of time that~~  
107 ~~the information remains confidential and exempt.~~ Such written  
108 sworn statement must be completed and sworn to by the requesting  
109 party for each individual crash report that is being requested  
110 ~~within 60 days after the report is filed.~~ In lieu of requiring  
111 the ~~written~~ sworn statement, an agency may provide crash reports  
112 by electronic means pursuant to a memorandum of understanding  
113 that requires third-party vendors under contract with one or  
114 ~~more insurers, but only when such contract states that personal~~  
115 information contained in ~~from~~ a crash report remain ~~made~~  
116 confidential and exempt and prohibits such personal information

596-02086-22

20221614c1

117 ~~from being by this section will not be used for any commercial~~  
118 ~~solicitation of accident victims by the vendors, or knowingly~~  
119 ~~disclosed by the vendors to any third party who is not~~  
120 ~~authorized by this section to access such personal information~~  
121 ~~for the purpose of such solicitation, during the period of time~~  
122 ~~that the information remains confidential and exempt, and only~~  
123 ~~when a copy of such contract is furnished to the agency as proof~~  
124 ~~of the vendor's claimed status.~~

125 (e) This subsection does not prohibit an agency from  
126 providing summary reports of crashes to radio and television  
127 stations, newspapers, and other news media, which reports may  
128 disclose information about crashes, including, but not limited  
129 to, the time, date, and location of a crash; the name, age,  
130 gender, race, and ethnicity of any driver involved in the crash;  
131 a general description of any vehicle involved in the crash,  
132 including the vehicle's color, make, model, body style, and  
133 year; the names of the law enforcement agencies and officers  
134 responding to the scene or investigating the crash; the  
135 circumstances of the crash; and whether any arrests were made or  
136 traffic citations were issued ~~prevent the dissemination or~~  
137 ~~publication of news to the general public by any legitimate~~  
138 ~~media entitled to access confidential and exempt information~~  
139 ~~pursuant to this section.~~

140 (f) If crash reports are created by or submitted to an  
141 agency electronically as data elements within a computerized  
142 database, or if personal information from a crash report is  
143 entered into a computerized database, such crash report data  
144 held by an agency is confidential and exempt from s. 119.07(1)  
145 and s. 24(a), Art. I of the State Constitution. This exemption

596-02086-22

20221614c1

146 applies to such crash report data held by an agency before, on,  
147 or after the effective date of the exemption. This paragraph  
148 does not prevent an agency from disclosing:

149 1. A crash report pursuant to paragraphs (b)-(d) which is  
150 rendered as an individual report in its original format, whether  
151 printed as a paper document or provided in electronic format  
152 such as Portable Document Format or Tagged Image File Format.

153 2. Extracts of crash report data if all personal  
154 information is omitted from the extracts.

155 ~~(g) Free newspapers of general circulation published once a~~  
156 ~~week or more often, of which at least 7,500 copies are~~  
157 ~~distributed by mail or by carrier as verified by a postal~~  
158 ~~statement or by a notarized printer's statement of press run,~~  
159 ~~which are intended to be generally distributed and circulated,~~  
160 ~~which contain news of general interest with at least 10 pages~~  
161 ~~per publication, available and of interest to the public~~  
162 ~~generally for the dissemination of news, and which request 10 or~~  
163 ~~more crash reports within a 24-hour period before 60 days have~~  
164 ~~elapsed after the report is filed may not have access to the~~  
165 ~~home, cellular, employment, or other telephone number or the~~  
166 ~~home or employment address of any of the parties involved in the~~  
167 ~~crash. This subsection paragraph is subject to the Open~~  
168 ~~Government Sunset Review Act in accordance with s. 119.15 and~~  
169 ~~shall stand repealed on October 2, 2027 2019, unless reviewed~~  
170 ~~and saved from repeal through reenactment by the Legislature.~~

171 (3) (a) A ~~Any~~ driver failing to file the written report  
172 required under subsection (1) commits a noncriminal traffic  
173 infraction, punishable as a nonmoving violation as provided in  
174 chapter 318.

596-02086-22

20221614c1

175 (b) An ~~Any~~ employee of an ~~a state or local~~ agency, as  
176 defined in s. 119.011, in possession of information made  
177 confidential and exempt by this section who knowingly discloses  
178 such confidential and exempt information to a person not  
179 entitled to access such information under this section commits a  
180 felony of the third degree, punishable as provided in s.  
181 775.082, s. 775.083, or s. 775.084.

182 (c) A ~~Any~~ person who, knowing that he or she is not  
183 entitled to obtain information made confidential and exempt by  
184 this section, ~~who~~ obtains or attempts to obtain such information  
185 commits a felony of the third degree, punishable as provided in  
186 s. 775.082, s. 775.083, or s. 775.084.

187 (d) A ~~Any~~ person who knowingly uses confidential and exempt  
188 information in violation of a filed ~~written~~ sworn statement,  
189 memorandum of understanding, or contractual agreement required  
190 by this section commits a felony of the third degree, punishable  
191 as provided in s. 775.082, s. 775.083, or s. 775.084.

192 Section 2. Subsection (11) of section 316.650, Florida  
193 Statutes, is amended to read:

194 316.650 Traffic citations.—

195 (11) (a) As used in this subsection, the term "driver  
196 information" means a driver's date of birth, driver license  
197 number, address excluding the five-digit zip code, telephone  
198 number, motor vehicle license plate number, and trailer tag  
199 number. The term does not include the driver's name.

200 (b) 1. Driver information contained in a uniform traffic  
201 citation held by an agency is exempt from s. 119.07(1) and s.  
202 24(a), Art. I of the State Constitution. This paragraph applies  
203 to driver information held by an agency before, on, or after the

596-02086-22

20221614c1

204 effective date of the exemption.

205 2. An agency may release driver information in accordance  
206 with any of the permissible uses listed in 18 U.S.C. s. 2721(b)  
207 in the same manner applicable to the release of personal  
208 information contained in a motor vehicle record pursuant to s.  
209 119.0712(2)(b).

210 3. This paragraph is subject to the Open Government Sunset  
211 Review Act in accordance with s. 119.15 and shall stand repealed  
212 on October 2, 2027, unless reviewed and saved from repeal  
213 through reenactment by the Legislature.

214 (c) Driver information contained in a uniform traffic  
215 citation ~~may, which includes but is not limited to, the accused~~  
216 ~~person's name and address, shall not be used for commercial~~  
217 ~~solicitation purposes. However, the use of such driver~~  
218 ~~information contained in a uniform traffic citation shall not be~~  
219 ~~considered a commercial purpose when used for publication in a~~  
220 ~~newspaper or other news periodical, when used for broadcast by~~  
221 ~~radio or television, or when used to inform a person of the~~  
222 ~~availability of driver safety training.~~

223 Section 3. (1) The Legislature finds that it is a public  
224 necessity that crash reports that reveal personal information  
225 concerning parties involved in a crash and the computerized  
226 crash report data be confidential and exempt from s. 119.07(1),  
227 Florida Statutes, and s. 24(a), Article I of the State  
228 Constitution. Crash reports reveal significant personal  
229 information, not only about drivers involved in a crash but also  
230 about motor vehicle owners, motor vehicle passengers, and other  
231 witnesses and about owners of nonvehicle property damaged in a  
232 crash. Pervasive use of the Internet and related technologies



596-02086-22

20221614c1

233 abet those with malicious purposes in exploiting the use of  
234 personal information, such as a motorist's date of birth, driver  
235 license number, and address, creating ever-expanding threats to  
236 motorist privacy and security never envisioned in generations  
237 past. Moreover, ever-increasing use of information technology  
238 for the preparation, submission, and management of crash reports  
239 has led agencies to hold vast repositories of computerized crash  
240 report data, which includes such personal information. Motorist  
241 personal information, when held by the Department of Highway  
242 Safety and Motor Vehicles in motor vehicle records, is  
243 confidential pursuant to the federal Driver's Privacy Protection  
244 Act of 1994, 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2),  
245 Florida Statutes. These restrictions on disclosure of motorist  
246 personal information, however, have not applied to personal  
247 information contained in crash reports. When crash reports and  
248 computerized crash report data are made available to the public,  
249 because they comprise much of the same personal information  
250 contained in motor vehicle records, the protections afforded by  
251 the federal Driver's Privacy Protection Act of 1994 are  
252 significantly undermined, eroding the privacy and safety of  
253 motorists. Therefore, the Legislature finds that it is a public  
254 necessity to make confidential and exempt from public records  
255 requirements crash reports that reveal personal information and  
256 computerized crash report data.

257 (2) The Legislature finds that it is a public necessity  
258 that driver information contained in a uniform traffic citation  
259 held by an agency be exempt from s. 119.07(1), Florida Statutes,  
260 and s. 24(a), Article I of the State Constitution. Uniform  
261 traffic citations reveal significant personal information about

596-02086-22

20221614c1

262 drivers issued a citation. Pervasive use of the Internet and  
263 related technologies abet those with malicious purposes in  
264 exploiting the use of personal information, such as a motorist's  
265 date of birth, driver license number, and address, creating  
266 ever-expanding threats to motorist privacy and security never  
267 envisioned in generations past. Motorist personal information,  
268 when held by the Department of Highway Safety and Motor Vehicles  
269 in motor vehicle records, is confidential pursuant to the  
270 federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss.  
271 2721 et seq., and s. 119.0712(2), Florida Statutes. These  
272 restrictions on disclosure of motorist personal information,  
273 however, have not applied to driver information contained in  
274 uniform traffic citations. When driver information contained in  
275 uniform traffic citations is made available to the public,  
276 because it comprises much of the same personal information  
277 contained in motor vehicle records, the protections afforded by  
278 the federal Driver's Privacy Protection Act of 1994 are  
279 significantly undermined, eroding the privacy and safety of  
280 motorists. Therefore, the Legislature finds that it is a public  
281 necessity to make exempt from public records requirements driver  
282 information contained in uniform traffic citations.

283 Section 4. This act shall take effect July 1, 2022.