

Bill No. SB 712

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585-2102A-06

Proposed Committee Substitute by the Committee on Governmental Oversight and Productivity

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A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act regarding motor vehicle crash reports; amending s. 316.066, F.S., which provides an exemption from public records requirements for required motor vehicle crash reports that reveal the identity, home or employment telephone number, or home or employment address of, or other personal information concerning, parties involved in a motor vehicle crash and that are held by any agency that regularly receives or prepares information from or concerning the parties to motor vehicle crashes; reorganizing provisions, making editorial and conforming changes, and removing superfluous language; removing the scheduled repeal of the exemption under the Open Government Sunset Review Act; amending ss. 324.051 and 921.0022, F.S.; correcting cross-references; providing an effective date.

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

Section 1. Section 316.066, Florida Statutes, is amended to read:

316.066 Written reports of crashes.--

(1) The driver of a vehicle which is in any manner involved in a crash resulting in bodily injury to or death of any person or damage to any vehicle or other property in an apparent amount of at least \$500 shall, within 10 days after the crash, forward a written report of such crash to the

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1 department or traffic records center. However, when the
2 investigating officer has made a written report of the crash
3 pursuant to subsection ~~paragraph~~ (3)(a), no written report
4 need be forwarded to the department or traffic records center
5 by the driver.

6 (2) The receiving entity may require any driver of a
7 vehicle involved in a crash of which a written report must be
8 made as provided in this section to file supplemental written
9 reports whenever the original report is insufficient in the
10 opinion of the department and may require witnesses of crashes
11 to render reports to the department.

12 (3)(a) Every law enforcement officer who in the
13 regular course of duty investigates a motor vehicle crash:

14 1. Which crash resulted in death or personal injury
15 shall, within 10 days after completing the investigation,
16 forward a written report of the crash to the department or
17 traffic records center.

18 2. Which crash involved a violation of s. 316.061(1)
19 or s. 316.193 shall, within 10 days after completing the
20 investigation, forward a written report of the crash to the
21 department or traffic records center.

22 3. In which crash a vehicle was rendered inoperative
23 to a degree which required a wrecker to remove it from traffic
24 may, within 10 days after completing the investigation,
25 forward a written report of the crash to the department or
26 traffic records center if such action is appropriate, in the
27 officer's discretion.

28 (b) ~~However,~~ In every case in which a crash report is
29 required by this section and a written report to a law
30 enforcement officer is not prepared, the law enforcement
31 officer shall provide each party involved in the crash a

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1 short-form report, prescribed by the state, to be completed by
2 the party. The short-form report must include, ~~but is not~~
3 ~~limited to:~~

- 4 1. The date, time, and location of the crash;
- 5 2. A description of the vehicles involved;
- 6 3. The names and addresses of the parties involved;
- 7 4. The names and addresses of witnesses;
- 8 5. The name, badge number, and law enforcement agency
9 of the officer investigating the crash; and
- 10 6. The names of the insurance companies for the
11 respective parties involved in the crash.

12 (c) Each party to the crash shall provide the law
13 enforcement officer with proof of insurance to be included in
14 the crash report. If a law enforcement officer submits a
15 report on the accident, proof of insurance must be provided to
16 the officer by each party involved in the crash. Any party who
17 fails to provide the required information is guilty of an
18 infraction for a nonmoving violation, punishable as provided
19 in chapter 318 unless the officer determines that due to
20 injuries or other special circumstances such insurance
21 information cannot be provided immediately. If the person
22 provides the law enforcement agency, within 24 hours after the
23 crash, proof of insurance that was valid at the time of the
24 crash, the law enforcement agency may void the citation.

25 (4)(a)(b) One or more counties may enter into an
26 agreement with the appropriate state agency to be certified by
27 the agency to have a traffic records center for the purpose of
28 tabulating and analyzing countywide traffic crash reports. The
29 agreement must include: certification by the agency that the
30 center has adequate auditing and monitoring mechanisms in
31 place to ensure the quality and accuracy of the data; the time

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1 period in which the traffic records center must report crash
2 data to the agency; and the medium in which the traffic
3 records must be submitted to the agency.

4 (b) In the case of a county or multicounty area that
5 has a certified central traffic records center, a law
6 enforcement agency or driver must submit to the center within
7 the time limit prescribed in this section a written report of
8 the crash. A driver who is required to file a crash report
9 must be notified of the proper place to submit the completed
10 report.

11 (c) Fees for copies of public records provided by a
12 certified traffic records center shall be charged and
13 collected as follows:

- 14 For a crash report.....\$2 per copy.
- 15 For a homicide report.....\$25 per copy.
- 16 For a uniform traffic citation.....\$0.50 per copy.

17
18 The fees collected for copies of the public records provided
19 by a certified traffic records center shall be used to fund
20 the center or otherwise as designated by the county or
21 counties participating in the center.

22 (5)(a)(c) Crash reports that ~~required by this section~~
23 ~~which~~ reveal the identity, home or employment telephone number
24 or home or employment address of, or other personal
25 information concerning the parties involved in the crash and
26 that ~~which~~ are held ~~received or prepared~~ by any agency that
27 regularly receives or prepares information from or concerning
28 the parties to motor vehicle crashes are confidential and
29 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
30 Constitution for a period of 60 days after the date the report
31 is filed.

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1 **(b) Crash** ~~However, such reports held by an agency~~
2 ~~under paragraph (a)~~ may be made immediately available to the
3 parties involved in the crash, their legal representatives,
4 their licensed insurance agents, their insurers or insurers to
5 which they have applied for coverage, persons under contract
6 with such insurers to provide claims or underwriting
7 information, prosecutorial authorities, victim services
8 programs, radio and television stations licensed by the
9 Federal Communications Commission, newspapers qualified to
10 publish legal notices under ss. 50.011 and 50.031, and free
11 newspapers of general circulation, published once a week or
12 more often, available and of interest to the public generally
13 for the dissemination of news. For the purposes of this
14 section, the following products or publications are not
15 newspapers as referred to in this section: those intended
16 primarily for members of a particular profession or
17 occupational group; those with the primary purpose of
18 distributing advertising; and those with the primary purpose
19 of publishing names and other personal identifying information
20 concerning parties to motor vehicle crashes.

21 **(c)** Any local, state, or federal agency, ~~victim~~
22 ~~services program, agent, or employee~~ that is authorized to
23 have access to crash ~~such~~ reports by any provision of law
24 shall be granted such access in the furtherance of the
25 agency's statutory duties ~~notwithstanding the provisions of~~
26 ~~this paragraph. Any local, state, or federal agency, agent, or~~
27 ~~employee receiving such crash reports shall maintain the~~
28 ~~confidential and exempt status of those reports and shall not~~
29 ~~disclose such crash reports to any person or entity.~~

30 **(d)** As a condition precedent to accessing a crash
31 report within 60 days after the date the report is filed, a

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1 person must present a valid driver's license or other
2 photographic identification, proof of status, or
3 identification that demonstrates his or her qualifications to
4 access that information, and file a written sworn statement
5 with the state or local agency in possession of the
6 information stating that information from a crash report made
7 confidential and exempt by this section will not be used for
8 any commercial solicitation of accident victims, or knowingly
9 disclosed to any third party for the purpose of such
10 solicitation, during the period of time that the information
11 remains confidential and exempt. In lieu of requiring the
12 written sworn statement, an agency may provide crash reports
13 by electronic means to third-party vendors under contract with
14 one or more insurers, but only when such contract states that
15 information from a crash report made confidential and exempt
16 by this section will not be used for any commercial
17 solicitation of accident victims by the vendors, or knowingly
18 disclosed by the vendors to any third party for the purpose of
19 such solicitation, during the period of time that the
20 information remains confidential and exempt, and only when a
21 copy of such contract is furnished to the agency as proof of
22 the vendor's claimed status.

23 (e) This subsection does not prevent the dissemination
24 or publication of news to the general public by any legitimate
25 media entitled to access confidential and exempt information
26 pursuant to this section. ~~A law enforcement officer as defined~~
27 ~~in s. 943.10(1) may enforce this subsection. This exemption is~~
28 ~~subject to the Open Government Sunset Review Act of 1995 in~~
29 ~~accordance with s. 119.15, and shall stand repealed on October~~
30 ~~2, 2006, unless reviewed and saved from repeal through~~
31 ~~reenactment by the Legislature.~~

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1 ~~(6)(a)(d)~~ Any driver failing to file the written
2 report required under subsection (1) or subsection (2) commits
3 a noncriminal traffic infraction, punishable as a nonmoving
4 violation as provided in chapter 318.

5 **(b)** Any employee of a state or local agency in
6 possession of information made confidential and exempt by this
7 section who knowingly discloses such confidential and exempt
8 information to a person not entitled to access such
9 information under this section is guilty of a felony of the
10 third degree, punishable as provided in s. 775.082, s.
11 775.083, or s. 775.084.

12 ~~(c)(e)~~ Any person, knowing that he or she is not
13 entitled to obtain information made confidential and exempt by
14 this section, who obtains or attempts to obtain such
15 information is guilty of a felony of the third degree,
16 punishable as provided in s. 775.082, s. 775.083, or s.
17 775.084.

18 ~~(d)(f)~~ Any person who knowingly uses confidential and
19 exempt information in violation of a filed written sworn
20 statement or contractual agreement required by this section
21 commits a felony of the third degree, punishable as provided
22 in s. 775.082, s. 775.083, or s. 775.084.

23 ~~(7)(4)~~ Except as specified in this subsection, each
24 crash report made by a person involved in a crash and any
25 statement made by such person to a law enforcement officer for
26 the purpose of completing a crash report required by this
27 section shall be without prejudice to the individual so
28 reporting. No such report or statement shall be used as
29 evidence in any trial, civil or criminal. However, subject to
30 the applicable rules of evidence, a law enforcement officer at
31 a criminal trial may testify as to any statement made to the

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1 officer by the person involved in the crash if that person's
 2 privilege against self-incrimination is not violated. The
 3 results of breath, urine, and blood tests administered as
 4 provided in s. 316.1932 or s. 316.1933 are not confidential
 5 and shall be admissible into evidence in accordance with the
 6 provisions of s. 316.1934(2). Crash reports made by persons
 7 involved in crashes shall not be used for commercial
 8 solicitation purposes; however, the use of a crash report for
 9 purposes of publication in a newspaper or other news
 10 periodical or a radio or television broadcast shall not be
 11 construed as "commercial purpose."

12 (8) A law enforcement officer, as defined in s.
 13 943.10(1), may enforce this section.

14 ~~(5) For purposes of this section, a written report~~
 15 ~~includes a report generated by a law enforcement agency~~
 16 ~~through the use of a computer.~~

17 ~~(6) Any driver failing to file the written report~~
 18 ~~required under subsection (1) or subsection (2) commits a~~
 19 ~~noncriminal traffic infraction, punishable as a nonmoving~~
 20 ~~violation as provided in chapter 318.~~

21 Section 2. Paragraph (a) of subsection (1) of section
 22 324.051, Florida Statutes, is amended to read:

23 324.051 Reports of crashes; suspensions of licenses
 24 and registrations.--

25 (1)(a) Every law enforcement officer who, in the
 26 regular course of duty either at the time of and at the scene
 27 of the crash or thereafter by interviewing participants or
 28 witnesses, investigates a motor vehicle crash which he or she
 29 is required to report pursuant to s. 316.066(3)~~(a)~~ shall
 30 forward a written report of the crash to the department within
 31 10 days of completing the investigation. However, when the

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1 investigation of a crash will take more than 10 days to
 2 complete, a preliminary copy of the crash report shall be
 3 forwarded to the department within 10 days of the occurrence
 4 of the crash, to be followed by a final report within 10 days
 5 after completion of the investigation. The report shall be on
 6 a form and contain information consistent with the
 7 requirements of s. 316.068.

8 Section 3. Paragraph (c) of subsection (3) of section
 9 921.0022, Florida Statutes, is amended to read:

10 921.0022 Criminal Punishment Code; offense severity
 11 ranking chart.--

12 (3) OFFENSE SEVERITY RANKING CHART

| 13 Florida Statute | Felony Degree | Description |
|---------------------------------|---------------|---|
| | | (c) LEVEL 3 |
| 16 119.10(2)(b) | 3rd | Unlawful use of confidential information from police reports. |
| 18 316.066(6)(b)-(d) | | |
| 19 (3)(d)-(f) | 3rd | Unlawfully obtaining or using confidential crash reports. |
| 21 316.193(2)(b) | 3rd | Felony DUI, 3rd conviction. |
| 22 316.1935(2) | 3rd | Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated. |
| 26 319.30(4) | 3rd | Possession by junkyard of motor vehicle with identification number plate removed. |
| 29 319.33(1)(a) | 3rd | Alter or forge any certificate of title to a motor vehicle or mobile home. |

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| 1 | 319.33(1)(c) | 3rd | Procure or pass title on stolen |
| 2 | | | vehicle. |
| 3 | 319.33(4) | 3rd | With intent to defraud, possess, |
| 4 | | | sell, etc., a blank, forged, or |
| 5 | | | unlawfully obtained title or |
| 6 | | | registration. |
| 7 | 327.35(2)(b) | 3rd | Felony BUI. |
| 8 | 328.05(2) | 3rd | Possess, sell, or counterfeit |
| 9 | | | fictitious, stolen, or fraudulent |
| 10 | | | titles or bills of sale of |
| 11 | | | vessels. |
| 12 | 328.07(4) | 3rd | Manufacture, exchange, or possess |
| 13 | | | vessel with counterfeit or wrong |
| 14 | | | ID number. |
| 15 | 370.12(1)(e)5. | 3rd | Taking, disturbing, mutilating, |
| 16 | | | destroying, causing to be |
| 17 | | | destroyed, transferring, selling, |
| 18 | | | offering to sell, molesting, or |
| 19 | | | harassing marine turtles, marine |
| 20 | | | turtle eggs, or marine turtle |
| 21 | | | nests in violation of the Marine |
| 22 | | | Turtle Protection Act. |
| 23 | 370.12(1)(e)6. | 3rd | Soliciting to commit or |
| 24 | | | conspiring to commit a violation |
| 25 | | | of the Marine Turtle Protection |
| 26 | | | Act. |
| 27 | 376.302(5) | 3rd | Fraud related to reimbursement |
| 28 | | | for cleanup expenses under the |
| 29 | | | Inland Protection Trust Fund. |
| 30 | 400.903(3) | 3rd | Operating a clinic without a |
| 31 | | | license or filing false license |

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| 1 | | | application or other required |
| 2 | | | information. |
| 3 | 440.105(3)(b) | 3rd | Receipt of fee or consideration |
| 4 | | | without approval by judge of |
| 5 | | | compensation claims. |
| 6 | 440.1051(3) | 3rd | False report of workers' |
| 7 | | | compensation fraud or retaliation |
| 8 | | | for making such a report. |
| 9 | 501.001(2)(b) | 2nd | Tampers with a consumer product |
| 10 | | | or the container using materially |
| 11 | | | false/misleading information. |
| 12 | 624.401(4)(a) | 3rd | Transacting insurance without a |
| 13 | | | certificate of authority. |
| 14 | 624.401(4)(b)1. | 3rd | Transacting insurance without a |
| 15 | | | certificate of authority; premium |
| 16 | | | collected less than \$20,000. |
| 17 | 626.902(1)(a) & (b) | 3rd | Representing an unauthorized |
| 18 | | | insurer. |
| 19 | 697.08 | 3rd | Equity skimming. |
| 20 | 790.15(3) | 3rd | Person directs another to |
| 21 | | | discharge firearm from a vehicle. |
| 22 | 796.05(1) | 3rd | Live on earnings of a prostitute. |
| 23 | 806.10(1) | 3rd | Maliciously injure, destroy, or |
| 24 | | | interfere with vehicles or |
| 25 | | | equipment used in firefighting. |
| 26 | 806.10(2) | 3rd | Interferes with or assaults |
| 27 | | | firefighter in performance of |
| 28 | | | duty. |
| 29 | 810.09(2)(c) | 3rd | Trespass on property other than |
| 30 | | | structure or conveyance armed |
| 31 | | | with firearm or dangerous weapon. |

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| 1 | 812.014(2)(c)2. | 3rd | Grand theft; \$5,000 or more but |
| 2 | | | less than \$10,000. |
| 3 | 812.0145(2)(c) | 3rd | Theft from person 65 years of age |
| 4 | | | or older; \$300 or more but less |
| 5 | | | than \$10,000. |
| 6 | 815.04(4)(b) | 2nd | Computer offense devised to |
| 7 | | | defraud or obtain property. |
| 8 | 817.034(4)(a)3. | 3rd | Engages in scheme to defraud |
| 9 | | | (Florida Communications Fraud |
| 10 | | | Act), property valued at less |
| 11 | | | than \$20,000. |
| 12 | 817.233 | 3rd | Burning to defraud insurer. |
| 13 | 817.234(8)(b)-(c) | 3rd | Unlawful solicitation of persons |
| 14 | | | involved in motor vehicle |
| 15 | | | accidents. |
| 16 | 817.234(11)(a) | 3rd | Insurance fraud; property value |
| 17 | | | less than \$20,000. |
| 18 | 817.236 | 3rd | Filing a false motor vehicle |
| 19 | | | insurance application. |
| 20 | 817.2361 | 3rd | Creating, marketing, or |
| 21 | | | presenting a false or fraudulent |
| 22 | | | motor vehicle insurance card. |
| 23 | 817.413(2) | 3rd | Sale of used goods as new. |
| 24 | 817.505(4) | 3rd | Patient brokering. |
| 25 | 828.12(2) | 3rd | Tortures any animal with intent |
| 26 | | | to inflict intense pain, serious |
| 27 | | | physical injury, or death. |
| 28 | 831.28(2)(a) | 3rd | Counterfeiting a payment |
| 29 | | | instrument with intent to defraud |
| 30 | | | or possessing a counterfeit |
| 31 | | | payment instrument. |

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| 1 | 831.29 | 2nd | Possession of instruments for |
| 2 | | | counterfeiting drivers' licenses |
| 3 | | | or identification cards. |
| 4 | 838.021(3)(b) | 3rd | Threatens unlawful harm to public |
| 5 | | | servant. |
| 6 | 843.19 | 3rd | Injure, disable, or kill police |
| 7 | | | dog or horse. |
| 8 | 860.15(3) | 3rd | Overcharging for repairs and |
| 9 | | | parts. |
| 10 | 870.01(2) | 3rd | Riot; inciting or encouraging. |
| 11 | 893.13(1)(a)2. | 3rd | Sell, manufacture, or deliver |
| 12 | | | cannabis (or other s. |
| 13 | | | 893.03(1)(c), (2)(c)1., (2)(c)2., |
| 14 | | | (2)(c)3., (2)(c)5., (2)(c)6., |
| 15 | | | (2)(c)7., (2)(c)8., (2)(c)9., |
| 16 | | | (3), or (4) drugs). |
| 17 | 893.13(1)(d)2. | 2nd | Sell, manufacture, or deliver s. |
| 18 | | | 893.03(1)(c), (2)(c)1., (2)(c)2., |
| 19 | | | (2)(c)3., (2)(c)5., (2)(c)6., |
| 20 | | | (2)(c)7., (2)(c)8., (2)(c)9., |
| 21 | | | (3), or (4) drugs within 1,000 |
| 22 | | | feet of university. |
| 23 | 893.13(1)(f)2. | 2nd | Sell, manufacture, or deliver s. |
| 24 | | | 893.03(1)(c), (2)(c)1., (2)(c)2., |
| 25 | | | (2)(c)3., (2)(c)5., (2)(c)6., |
| 26 | | | (2)(c)7., (2)(c)8., (2)(c)9., |
| 27 | | | (3), or (4) drugs within 1,000 |
| 28 | | | feet of public housing facility. |
| 29 | 893.13(6)(a) | 3rd | Possession of any controlled |
| 30 | | | substance other than felony |
| 31 | | | possession of cannabis. |

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- 1 893.13(7)(a)8. 3rd Withhold information from
- 2 practitioner regarding previous
- 3 receipt of or prescription for a
- 4 controlled substance.
- 5 893.13(7)(a)9. 3rd Obtain or attempt to obtain
- 6 controlled substance by fraud,
- 7 forgery, misrepresentation, etc.
- 8 893.13(7)(a)10. 3rd Affix false or forged label to
- 9 package of controlled substance.
- 10 893.13(7)(a)11. 3rd Furnish false or fraudulent
- 11 material information on any
- 12 document or record required by
- 13 chapter 893.
- 14 893.13(8)(a)1. 3rd Knowingly assist a patient, other
- 15 person, or owner of an animal in
- 16 obtaining a controlled substance
- 17 through deceptive, untrue, or
- 18 fraudulent representations in or
- 19 related to the practitioner's
- 20 practice.
- 21 893.13(8)(a)2. 3rd Employ a trick or scheme in the
- 22 practitioner's practice to assist
- 23 a patient, other person, or owner
- 24 of an animal in obtaining a
- 25 controlled substance.
- 26 893.13(8)(a)3. 3rd Knowingly write a prescription
- 27 for a controlled substance for a
- 28 fictitious person.
- 29 893.13(8)(a)4. 3rd Write a prescription for a
- 30 controlled substance for a
- 31 patient, other person, or an

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| 1 | | | animal if the sole purpose of |
| 2 | | | writing the prescription is a |
| 3 | | | monetary benefit for the |
| 4 | | | practitioner. |
| 5 | 918.13(1)(a) | 3rd | Alter, destroy, or conceal |
| 6 | | | investigation evidence. |
| 7 | 944.47(1)(a)1.-2. | 3rd | Introduce contraband to |
| 8 | | | correctional facility. |
| 9 | 944.47(1)(c) | 2nd | Possess contraband while upon the |
| 10 | | | grounds of a correctional |
| 11 | | | institution. |
| 12 | 985.3141 | 3rd | Escapes from a juvenile facility |
| 13 | | | (secure detention or residential |
| 14 | | | commitment facility). |
| 15 | Section 4. | | This act shall take effect October 1, 2006. |

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