

Council Substitute for House Bill No. 1805

An act relating to public records; amending s. 316.066, F.S.; providing an exemption from public-records requirements for motor vehicle crash reports that reveal specified information; providing that such reports may be made available to certain parties; providing for future review and repeal; providing penalties for the unlawful disclosure of confidential information and for unlawfully obtaining or attempting to obtain confidential information; providing findings of public necessity; providing an effective date.

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

Section 1. Paragraph (c) of subsection (3) of section 316.066, Florida Statutes, is amended, and paragraphs (d) and (e) are added to that subsection, to read:

316.066 Written reports of crashes.—

(3)

(c) Crash reports required by this section which reveal the identity, home or employment telephone number or home or employment address of, or other personal information concerning the parties involved in the crash and which are received or prepared by any agency 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 for a period of 60 days after the date the report is filed. However, such reports 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, radio and television stations licensed by the Federal Communications Commission, newspapers qualified to publish legal notices under ss. 50.011 and 50.031, and free newspapers of general circulation, published once a week or more often, available and of interest to the public generally for the dissemination of news. For the purposes of this section, the following products or publications are not newspapers as referred to in this section: those intended primarily for members of a particular profession or occupational group; those with the primary purpose of distributing advertising; and those with the primary purpose of publishing names and other personally identifying information concerning parties to motor vehicle crashes. Any state or federal agency that is authorized to have access to such reports by any provision of law shall be granted such access in the furtherance of the agency's statutory duties notwithstanding the provisions of this paragraph. Any person attempting to access crash reports within 60 days after the date the report is filed must present legitimate credentials or identification that demonstrates his or her qualifications to access that information. This exemption is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and

~~shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature. Crash reports made by law enforcement officers shall not be used for commercial solicitation purposes; however, the use of a crash report for purposes of publication in a newspaper or other news periodical or a radio or television broadcast shall not be construed as "commercial purpose."~~

(d) Any employee of a state or local agency in possession of information made confidential by this section who knowingly discloses such confidential information to a person not entitled to access such information under this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

Section 2. The Legislature finds that there is a public necessity that portions of crash reports which are mandated to be provided by law and which reveal personal information concerning parties to motor vehicle crashes be held confidential and exempt for 60 days after the date the report is filed to protect the privacy of persons that have been the subject of a motor vehicle crash. Further, the exemption is necessary to protect the public from unscrupulous individuals who promote the filing of fraudulent insurance claims by obtaining such information immediately after a crash and exploiting the individual at a time of emotional distress. The Second Interim Report of the Fifteenth Statewide Grand Jury on insurance fraud related to personal injury protection noted a "strong correlation between illegal solicitation and the commission of a variety of frauds." The grand jury found "the wholesale availability of these reports is a major contributing factor to this illegal activity and likely the single biggest factor contributing to the high level of illegal solicitation." Virtually anyone involved in a car accident in the state is fair game for "runners" who collect crash reports in bulk from law enforcement officials and then provide the information to solicit crash victims and defraud insurers. Continuing to make this information available, in the words of the grand jury, "can be emotionally, physically, and ultimately financially destructive." Motor vehicle insurance fraud is estimated to add as much as \$246 to the average motor vehicle insurance policy premium. In the past 5 years, the Department of Insurance has received nearly 5,000 referrals of personal injury protection (PIP) insurance fraud and has made more than 500 arrests, resulting in an 80-percent conviction rate. Motor vehicle insurance fraud is fueled by early access to crash reports, which provides the opportunity for the filing of fraudulent insurance claims. Crash reports made by law enforcement officers should not be used for commercial solicitation purposes; however, the use of a crash report for purposes of publication in a newspaper or other news periodical or a radio or television broadcast may not be construed as a "commercial purpose." The Legislature also finds that crash reports should be made available to certain parties, such as those persons involved in the motor vehicle crash and their legal representatives, their insurers or insurers to which they have applied for coverage, their licensed insurance agents, persons under contract with

such insurers to provide claims or underwriting information, and representatives of law enforcement and other regulatory agencies, and prosecutorial authorities within 60 days after the crash report is filed.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 5, 2001.

Filed in Office Secretary of State June 5, 2001.