

## House Bill No. 7035

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

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

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

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

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

3. In which crash a vehicle was rendered inoperative to a degree which required a wrecker to remove it from traffic may, within 10 days after

completing the investigation, forward a written report of the crash to the department or traffic records center if such action is appropriate, in the officer's discretion.

(b) ~~However,~~ In every case in which a crash report is required by this section and a written report to a law enforcement officer is not prepared, the law enforcement officer shall provide each party involved in the crash a short-form report, prescribed by the state, to be completed by the party. The short-form report must include, ~~but is not limited to:~~

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

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

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

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

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

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

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

~~(5)(a)(e) Crash reports that 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 that which are held 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.

(b) Crash ~~However, such 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, victim services programs, 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 personal identifying information concerning parties to motor vehicle crashes.

~~(c) Any local, state, or federal agency, victim services program, agent, or employee that is authorized to have access to crash 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 local, state, or federal agency, agent, or employee receiving such crash reports shall maintain the confidential and exempt status of those reports and shall not disclose such crash reports to any person or entity.~~

(d) As a condition precedent to accessing a crash report within 60 days after the date the report is filed, a person must present a valid driver’s license or other photographic identification, proof of status, or identification that demonstrates his or her qualifications to access that information, and file a written sworn statement with the state or local agency in possession of the information stating that information from a crash report made confidential and exempt by this section will not be used for any commercial solicitation of accident victims, or knowingly disclosed to any third party for

the purpose of such solicitation, during the period of time that the information remains confidential and exempt. In lieu of requiring the written sworn statement, an agency may provide crash reports by electronic means to third-party vendors under contract with one or more insurers, but only when such contract states that information from a crash report made confidential and exempt by this section will not be used for any commercial solicitation of accident victims by the vendors, or knowingly disclosed by the vendors to any third party for the purpose of such solicitation, during the period of time that the information remains confidential and exempt, and only when a copy of such contract is furnished to the agency as proof of the vendor's claimed status.

~~(e) This subsection does not prevent the dissemination or publication of news to the general public by any legitimate media entitled to access confidential and exempt information pursuant to this section. A law enforcement officer as defined in s. 943.10(1) may enforce this subsection. 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.~~

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

(b) Any employee of a state or local agency in possession of information made confidential and exempt by this section who knowingly discloses such confidential and exempt 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.

(c)(e) Any person, knowing that he or she is not entitled to obtain information made confidential and exempt 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.

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

(7)(4) Except as specified in this subsection, each crash report made by a person involved in a crash and any statement made by such person to a law enforcement officer for the purpose of completing a crash report required by this section shall be without prejudice to the individual so reporting. No such report or statement shall be used as evidence in any trial, civil or criminal. However, subject to the applicable rules of evidence, a law enforcement officer at a criminal trial may testify as to any statement made to the officer by the person involved in the crash if that person's privilege against self-incrimination is not violated. The results of breath, urine, and blood tests administered as provided in s. 316.1932 or s. 316.1933 are not confidential and shall be admissible into evidence in accordance with the provisions of s. 316.1934(2). Crash reports made by persons involved in crashes 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.”

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

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

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

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

324.051 Reports of crashes; suspensions of licenses and registrations.—

(1)(a) Every law enforcement officer who, in the regular course of duty either at the time of and at the scene of the crash or thereafter by interviewing participants or witnesses, investigates a motor vehicle crash which he or she is required to report pursuant to s. 316.066(3)(a) shall forward a written report of the crash to the department within 10 days of completing the investigation. However, when the investigation of a crash will take more than 10 days to complete, a preliminary copy of the crash report shall be forwarded to the department within 10 days of the occurrence of the crash, to be followed by a final report within 10 days after completion of the investigation. The report shall be on a form and contain information consistent with the requirements of s. 316.068.

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

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(c) LEVEL 3
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
<u>316.066(6)(b)-(d)</u>		
<del>(3)(d)-(f)</del>	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.

Florida Statute	Felony Degree	Description
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
370.12(1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
370.12(1)(e)6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
400.903(3)	3rd	Operating a clinic without a license or filing false license application or other required information.
440.105(3)(b)	3rd	Receipt of fee or consideration without approval by judge of compensation claims.
440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.

Florida Statute	Felony Degree	Description
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
796.05(1)	3rd	Live on earnings of a prostitute.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
817.233	3rd	Burning to defraud insurer.
817.234(8)(b)-(c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than \$20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods as new.
817.505(4)	3rd	Patient brokering.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.

Florida Statute	Felony Degree	Description
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c),(2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8.,(2)(c)9., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2.,(2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2.,(2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.

Florida Statute	Felony Degree	Description
893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47(1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.3141	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

Section 4. This act shall take effect October 1, 2006.

Approved by the Governor June 20, 2006.

Filed in Office Secretary of State June 20, 2006.