

CHAPTER 2022-198

Committee Substitute for Committee Substitute for Senate Bill No. 1614

An act relating to public records; amending s. 316.066, F.S.; revising agencies to which a public records exemption for certain motor vehicle crash reports applies; revising entities to whom crash reports may be made immediately available; revising the types of crash reports that may be made immediately available to certain radio and television stations and newspapers; providing that crash reports may be made available to certain third parties subject to a certain restriction; revising conditions for accessing crash reports; specifying the availability of crash reports after a certain period; deleting a restriction on certain crash report information by certain newspapers; providing a public records exemption for certain electronic crash data; providing for future legislative review and repeal of the exemptions; revising applicability of a criminal penalty; providing a private cause of action against a person who violates certain restrictions relating to personal information; specifying damages, attorney fees, costs, and other relief a court may award; providing construction; amending s. 316.650, F.S.; defining the term “driver information”; providing an exemption from public records requirements for driver information contained in a uniform traffic citation; providing retroactive applicability; authorizing the release of driver information under certain circumstances; providing for future legislative review and repeal of the exemption; providing statements of public necessity; providing an effective date.

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, 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 for a period of 60 days after the date the report is filed.

(b) 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, victim services programs, and any federal, state, or local governmental agency or any private person or entity acting on behalf of a federal, state, or local

~~governmental agency in carrying out its functions, but not for redistribution to any person or entity not listed in this subsection. Crash reports held by an agency under paragraph (a) which do not contain the home or employment street addresses, driver license or identification card numbers, dates of birth, and home and employment telephone numbers of the parties involved in the crash shall be made immediately available to radio and television stations licensed by the Federal Communications Commission and newspapers qualified to publish legal notices under ss. 50.011 and 50.031. A crash report may also be made available to any third party acting on behalf of a person or entity authorized under this section to access the crash report, except that the third party may disclose the crash report only to the person or entity authorized to access the crash report under this section on whose behalf the third party has sought the report. This section shall not prevent an agency, pursuant to a memorandum of understanding, from providing data derived from crash reports to a third party solely for the purpose of identifying vehicles involved in crashes if such data does not reveal the identity, home or employment telephone number or home or employment address, or other personal information of the parties involved in the crash~~ prosecutorial authorities, law enforcement agencies, the Department of Transportation, county traffic operations, 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, in accordance with paragraph (f), free newspapers of general circulation, published once a week or more often, of which at least 7,500 copies are distributed by mail or by carrier as verified by a postal statement or by a notarized printer's statement of press run, which are intended to be generally distributed and circulated, and which contain news of general interest with at least 10 pages per publication, 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 that is authorized to have access to crash reports by any provision of law shall be granted such access in the furtherance of the agency's statutory duties.

(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 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.~~ Such written sworn statement must be completed and sworn to by the requesting party for each individual crash report that is being requested ~~within 60 days after the report is filed.~~ In lieu of requiring the written sworn statement, an agency may provide crash reports by electronic means pursuant to a memorandum of understanding 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.

(f) Crash reports held by an agency under paragraph (a) may be made available 60 days after the date the report is filed to any person or entity eligible to access crash reports under paragraph (b) or in accordance with any of the permissible uses listed in 18 U.S.C. s. 2721(b) and pursuant to the resale and redisclosure requirements in 18 U.S.C. s. 2721(c).

(g) If crash reports are created by or submitted to an agency electronically as data elements within a computerized database or if personal information from a crash report is entered into a computerized database, such crash data held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Sixty days after the date the crash report is filed, an agency may provide crash data derived from the crash report which includes personal information to entities eligible to access the crash report under paragraphs (b), or in accordance with any of the permissible uses listed in 18 U.S.C. s. 2721(b) and pursuant to the resale and redisclosure requirements in 18 U.S.C. s. 2721(c). Such data shall be provided pursuant to a memorandum of understanding.

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

~~accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.~~

(3)(a) Any driver failing to file the written report required under subsection (1) 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 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) 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 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Any person who knowingly uses confidential and exempt information in violation of a filed written sworn statement, memorandum of understanding, 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.

(e) In addition to penalties outlined in paragraphs (c) and (d), a person who obtains a crash report or crash data and who knowingly discloses or knowingly uses personal information revealed in the report for a purpose not permitted under 18 U.S.C. s. 2721(b) is liable to the individual to whom the information pertains, who may bring a civil action in any court of competent jurisdiction. The court may award:

1. Actual damages, but not less than liquidated damages in the amount of \$2,500.

2. Punitive damages upon proof of willful or reckless disregard of the law.

3. Reasonable attorney fees and other litigation costs reasonably incurred.

4. Such other preliminary and equitable relief as the court determines to be appropriate.

This paragraph does not apply to radio and television stations licensed by the Federal Communications Commission and newspapers qualified to publish legal notices under ss. 50.011 and 50.031.

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

316.650 Traffic citations.—

(11)(a) As used in this subsection, the term “driver information” means a driver’s date of birth, driver license or identification card number, address excluding the five-digit zip code, telephone number, motor vehicle license plate number, and trailer tag number. The term does not include the driver’s name.

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

2. An agency may release driver information in accordance with any of the permissible uses listed in 18 U.S.C. s. 2721(b) in the same manner applicable to the release of personal information contained in a motor vehicle record pursuant to s. 119.0712(2)(b) and pursuant to the resale and redisclosure requirements in 18 U.S.C. s. 2721(c).

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

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

Section 3. (1) The Legislature finds that it is a public necessity that crash reports that reveal personal information concerning parties, passengers, and witnesses to a crash for a period of 60 days after the date the crash report is filed with an agency; such personal information revealed in crash reports held by an agency following the 60-day period; and computerized crash report data held by an agency be confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Crash reports reveal significant personal information, not only about parties involved in a crash, but also about passengers and other witnesses to the crash. Pervasive use of the Internet and related technologies abet those with malicious purposes in exploiting the use of personal information revealed in crash reports, such as a party’s, passenger’s, or witness’s date of birth, driver license number, and address, creating ever-expanding threats to privacy and security never envisioned in generations past. Moreover, ever-increasing use of information technology for the preparation, submission, and management of crash reports has led agencies to hold vast repositories of computerized crash report data, which includes such personal information. Personal information, when held by the Department of Highway Safety and Motor

Vehicles in driver license and motor vehicle records, is confidential pursuant to the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2), Florida Statutes. These restrictions on disclosure of personal information, however, have not applied to personal information revealed in crash reports. When personal information revealed in crash reports or computerized crash report data is made available to the public, because it comprises much of the same personal information contained in driver license and motor vehicle records, the protections afforded by the federal Driver's Privacy Protection Act of 1994 are significantly undermined, eroding the privacy and safety of drivers. Therefore, the Legislature finds that it is a public necessity to make confidential and exempt from public records requirements crash reports that reveal personal information concerning parties, passengers, and witnesses to a crash for a period of 60 days after the date the crash report is filed with an agency; such personal information revealed in crash reports held by an agency following the 60-day period; and computerized crash report data held by an agency.

(2) The Legislature finds that it is a public necessity that driver information contained in a uniform traffic citation held by an agency be exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Uniform traffic citations reveal significant personal information about drivers issued a citation. Pervasive use of the Internet and related technologies abet those with malicious purposes in exploiting the use of personal information contained in traffic citations, such as a driver's date of birth, driver license number, and address, creating ever-expanding threats to privacy and security never envisioned in generations past. Driver information, when held by the Department of Highway Safety and Motor Vehicles in driver license and motor vehicle records, is confidential pursuant to the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2), Florida Statutes. These restrictions on disclosure of personal information, however, have not applied to driver information contained in uniform traffic citations. When driver information contained in uniform traffic citations is made available to the public, because it comprises much of the same personal information contained in driver license and motor vehicle records, the protections afforded by the federal Driver's Privacy Protection Act of 1994 are significantly undermined, eroding the privacy and safety of drivers. Therefore, the Legislature finds that it is a public necessity to make exempt from public records requirements driver information contained in uniform traffic citations.

Section 4. This act shall take effect March 1, 2023.

Approved by the Governor June 20, 2022.

Filed in Office Secretary of State June 20, 2022.