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CHAMBER ACTION

	Senate House
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11	Senator Garcia moved the following amendment:
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13	Senate Amendment (with title amendment)
14	Delete everything after the enacting clause
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16	and insert:
17	Section 1. Subsection (85) of section 316.003, Florida
18	Statutes, is amended to read:
19	316.003 DefinitionsThe following words and phrases,
20	when used in this chapter, shall have the meanings
21	respectively ascribed to them in this section, except where
22	the context otherwise requires:
23	(85) VICTIM SERVICES <u>PROGRAM</u> PROGRAMS Any
24	community-based organization whose primary purpose is to act
25	as an advocate for the victims and survivors of traffic
26	crashes and for their families on a statewide basis. The
27	victims services offered by these programs may include grief
28	and crisis counseling, assistance with preparing victim
29	compensation claims excluding third-party legal action, or
30	connecting persons with other service providers, and providing
31	emergency financial assistance. <u>The community-based</u> 1
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organization must be qualified for nonprofit status under the
provisions of s. 501(c)(3) of the United States Internal
Review Code and have a valid consumer's certificate of
exemption issued to the organization by the Department of
Revenue.
Section 2. 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)

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- 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 31 | infraction for a nonmoving violation, punishable as provided

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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 3 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 8 the agency to have a traffic records center for the purpose of 9 10 tabulating and analyzing countywide traffic crash reports. The 11 agreement must include: certification by the agency that the center has adequate auditing and monitoring mechanisms in 12 place to ensure the quality and accuracy of the data; the time 13 period in which the traffic records center must report crash 14 15 data to the agency; and the medium in which the traffic records must be submitted to the agency. 16 (b) In the case of a county or multicounty area that 17 has a certified central traffic records center, a law 18 19 enforcement agency or driver must submit to the center within 20 the time limit prescribed in this section a written report of the crash. A driver who is required to file a crash report 21 22 must be notified of the proper place to submit the completed 23 report. 2.4 (c) Fees for copies of public records provided by a certified traffic records center shall be charged and 25 collected as follows: 26 27 For a crash report.....\$2 per copy. 28 For a homicide report.....\$25 per copy. 29 For a uniform traffic citation.....\$0.50 per copy. 30

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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)(c) Crash reports and the uniform traffic citations (HSMV75901) associated with such crashes and crash investigations 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 <u>held</u> 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 and citations 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 31 | primarily for members of a particular profession or

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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 <u>crash</u> such reports <u>and citations</u> 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 or uniform traffic citation 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 or uniform traffic citation 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 or uniform traffic citations by electronic means to third-party vendors under 31 | contract with one or more insurers, but only when such

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contract states that information from a crash report or uniform traffic citation made confidential and exempt by this 2. section will not be used for any commercial solicitation of 3 accident victims by the vendors, or knowingly disclosed by the vendors to any third party for the purpose of such 5 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 8 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.
- (f) 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, 2011 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 30 31 | entitled to obtain information made confidential and exempt by

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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. 3 4 775.084.

(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. 31 943.10(1), may enforce this section.

1	(5) For purposes of this section, a written report
2	includes a report generated by a law enforcement agency
3	through the use of a computer.
4	(6) Any driver failing to file the written report
5	required under subsection (1) or subsection (2) commits a
6	noncriminal traffic infraction, punishable as a nonmoving
7	violation as provided in chapter 318.
8	Section 3. The Legislature finds that there is a
9	public necessity that uniform traffic citations and portions
10	of crash reports which are mandated to be provided by law
11	immediately to certain parties as specified in s. 316.066,
12	Florida Statutes, be held confidential and exempt for 60 days
13	after the date the report or citation is filed to protect the
14	privacy of persons that have been the subject of a motor
15	vehicle crash report. Further, the exemption is necessary to
16	protect the public from unscrupulous individuals who promote
17	the filing of fraudulent insurance claims by obtaining such
18	information immediately after a crash and exploiting a crash
19	victim at a time of emotional distress. The Second Interim
20	Report of the Fifteenth Statewide Grand Jury on insurance
21	fraud related to personal injury protection noted a "strong
22	correlation" between illegal solicitation and the commission
23	of a variety of frauds. The grand jury found "the wholesale
24	availability of these reports is a major contributing factor
25	to this illegal activity and likely the single biggest factor
26	contributing to the high level of illegal solicitation."
27	Virtually anyone involved in a car accident in the state is
28	fair game for "runners" who collect crash reports within the
29	60-day public-records-exemption period under false pretenses
30	from law enforcement officials and then provide the
31	information to solicit crash victims and defraud insurers.

1	Continuing to make this information available, in the words of
2	the grand jury, "can be emotionally, physically, and
3	ultimately financially destructive. The 2003 Senate Select
4	Committee on Automobile Insurance/PIP Reform found that
5	despite reforms enacted in 1998 and 2001, fraud continues to
6	permeate the PIP insurance market in Florida. Referrals to the
7	Division of Insurance Fraud for personal injury protection
8	fraud increased over 400 percent from 2002-2003 to 2004-2005.
9	Motor vehicle insurance fraud is fueled by early access to
10	crash reports and uniform traffic citations, which provides
11	the opportunity for the filing of fraudulent insurance claims.
12	Crash reports and uniform traffic citations made by law
13	enforcement officers should not be used for commercial
14	solicitation purposes. However, the use of a crash report by a
15	victim services program that is qualified for nonprofit status
16	under s. 501(c)(3) of the Internal Revenue Code and has a
17	valid certificate of exemption which was issued to the program
18	by the Department of Revenue and acts as an advocate for the
19	victims and survivors of traffic crashes and their families
20	may not be construed as a "commercial purpose." Such programs
21	act as an advocate for the victims and survivors of traffic
22	crashes and their families by providing services such as grief
23	and crisis counseling, assistance with preparing victim
24	compensation claims excluding third-party legal action,
25	connecting persons with other service providers, and providing
26	emergency financial assistance. The Legislature finds that
27	crash reports should be made immediately available to
28	nonprofit victim services programs. The Legislature also finds
29	that uniform traffic citations should be made immediately
30	available to certain parties, such as those persons involved
31	in the motor vehicle crash and their legal representatives,

1	their insurers or insurers to which they have applied for
2	coverage, their licensed insurance agents, persons under
3	contract with such insurers to provide claims or underwriting
4	information, victim services programs, and representatives of
5	law enforcement agencies and other regulatory agencies, and
6	prosecutorial authorities within 60 days after the crash
7	report is filed.
8	Section 4. Paragraph (a) of subsection (1) of section
9	324.051, Florida Statutes, is amended to read:
10	324.051 Reports of crashes; suspensions of licenses
11	and registrations
12	(1)(a) Every law enforcement officer who, in the
13	regular course of duty either at the time of and at the scene
14	of the crash or thereafter by interviewing participants or
15	witnesses, investigates a motor vehicle crash which he or she
16	is required to report pursuant to s. $316.066(3)\frac{(a)}{(a)}$ shall
17	forward a written report of the crash to the department within
18	10 days of completing the investigation. However, when the
19	investigation of a crash will take more than 10 days to
20	complete, a preliminary copy of the crash report shall be
21	forwarded to the department within 10 days of the occurrence
22	of the crash, to be followed by a final report within 10 days
23	after completion of the investigation. The report shall be on
24	a form and contain information consistent with the
25	requirements of s. 316.068.
26	Section 5. Paragraph (c) of subsection (3) of section
27	921.0022, Florida Statutes, is amended to read:
28	921.0022 Criminal Punishment Code; offense severity
29	ranking chart
30	(3) OFFENSE SEVERITY RANKING CHART
31	

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1	Florida	Felony	Description
2	Statute	Degree	
3			(c) LEVEL 3
4	119.10(2)(b)	3rd	Unlawful use of confidential
5			information from police reports.
6	316.066 <u>(6)(a)-(d)</u>		
7	(3)(d)-(f)	3rd	Unlawfully obtaining or using
8			confidential crash reports.
9	316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
10	316.1935(2)	3rd	Fleeing or attempting to elude
11			law enforcement officer in patrol
12			vehicle with siren and lights
13			activated.
14	319.30(4)	3rd	Possession by junkyard of motor
15			vehicle with identification
16			number plate removed.
17	319.33(1)(a)	3rd	Alter or forge any certificate of
18			title to a motor vehicle or
19			mobile home.
20	319.33(1)(c)	3rd	Procure or pass title on stolen
21			vehicle.
22	319.33(4)	3rd	With intent to defraud, possess,
23			sell, etc., a blank, forged, or
24			unlawfully obtained title or
25			registration.
26	327.35(2)(b)	3rd	Felony BUI.
27	328.05(2)	3rd	Possess, sell, or counterfeit
28			fictitious, stolen, or fraudulent
29			titles or bills of sale of
30			vessels.
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1	328.07(4)	3rd	Manufacture, exchange, or possess
2			vessel with counterfeit or wrong
3			ID number.
4	370.12(1)(e)5.	3rd	Taking, disturbing, mutilating,
5			destroying, causing to be
6			destroyed, transferring, selling,
7			offering to sell, molesting, or
8			harassing marine turtles, marine
9			turtle eggs, or marine turtle
10			nests in violation of the Marine
11			Turtle Protection Act.
12	370.12(1)(e)6.	3rd	Soliciting to commit or
13			conspiring to commit a violation
14			of the Marine Turtle Protection
15			Act.
16	376.302(5)	3rd	Fraud related to reimbursement
17			for cleanup expenses under the
18			Inland Protection Trust Fund.
19	400.903(3)	3rd	Operating a clinic without a
20			license or filing false license
21			application or other required
22			information.
23	440.105(3)(b)	3rd	Receipt of fee or consideration
24			without approval by judge of
25			compensation claims.
26	440.1051(3)	3rd	False report of workers'
27			compensation fraud or retaliation
28			for making such a report.
29	501.001(2)(b)	2nd	Tampers with a consumer product
30			or the container using materially
31			false/misleading information.
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1	624.401(4)(a)	3rd	Transacting insurance without a
2			certificate of authority.
3	624.401(4)(b)1.	3rd	Transacting insurance without a
4			certificate of authority; premium
5			collected less than \$20,000.
6	626.902(1)(a) & (b)3rd	Representing an unauthorized
7			insurer.
8	697.08	3rd	Equity skimming.
9	790.15(3)	3rd	Person directs another to
10			discharge firearm from a vehicle.
11	796.05(1)	3rd	Live on earnings of a prostitute.
12	806.10(1)	3rd	Maliciously injure, destroy, or
13			interfere with vehicles or
14			equipment used in firefighting.
15	806.10(2)	3rd	Interferes with or assaults
16			firefighter in performance of
17			duty.
18	810.09(2)(c)	3rd	Trespass on property other than
19			structure or conveyance armed
20			with firearm or dangerous weapon.
21	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
22			less than \$10,000.
23	812.0145(2)(c)	3rd	Theft from person 65 years of age
24			or older; \$300 or more but less
25			than \$10,000.
26	815.04(4)(b)	2nd	Computer offense devised to
27			defraud or obtain property.
28	817.034(4)(a)3.	3rd	Engages in scheme to defraud
29			(Florida Communications Fraud
30			Act), property valued at less
31			than \$20,000.
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1	817.233	3rd	Burning to defraud insurer.
2	817.234(8)(b)-(c)	3rd	Unlawful solicitation of persons
3			involved in motor vehicle
4			accidents.
5	817.234(11)(a)	3rd	Insurance fraud; property value
6			less than \$20,000.
7	817.236	3rd	Filing a false motor vehicle
8			insurance application.
9	817.2361	3rd	Creating, marketing, or
10			presenting a false or fraudulent
11			motor vehicle insurance card.
12	817.413(2)	3rd	Sale of used goods as new.
13	817.505(4)	3rd	Patient brokering.
14	828.12(2)	3rd	Tortures any animal with intent
15			to inflict intense pain, serious
16			physical injury, or death.
17	831.28(2)(a)	3rd	Counterfeiting a payment
18			instrument with intent to defraud
19			or possessing a counterfeit
20			payment instrument.
21	831.29	2nd	Possession of instruments for
22			counterfeiting drivers' licenses
23			or identification cards.
24	838.021(3)(b)	3rd	Threatens unlawful harm to public
25			servant.
26	843.19	3rd	Injure, disable, or kill police
27			dog or horse.
28	860.15(3)	3rd	Overcharging for repairs and
29			parts.
30	870.01(2)	3rd	Riot; inciting or encouraging.
31			

1	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c)1., (2)(c)2.,
4			(2)(c)3., (2)(c)5., (2)(c)6.,
5			(2)(c)7., (2)(c)8., (2)(c)9.,
6			(3), or (4) drugs).
7	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
8			893.03(1)(c), (2)(c)1., (2)(c)2.,
9			(2)(c)3., (2)(c)5., (2)(c)6.,
10			(2)(c)7., (2)(c)8., (2)(c)9.,
11			(3), or (4) drugs within 1,000
12			feet of university.
13	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
14			893.03(1)(c), (2)(c)1., (2)(c)2.,
15			(2)(c)3., (2)(c)5., (2)(c)6.,
16			(2)(c)7., (2)(c)8., (2)(c)9.,
17			(3), or (4) drugs within 1,000
18			feet of public housing facility.
19	893.13(6)(a)	3rd	Possession of any controlled
20			substance other than felony
21			possession of cannabis.
22	893.13(7)(a)8.	3rd	Withhold information from
23			practitioner regarding previous
24			receipt of or prescription for a
25			controlled substance.
26	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
27			controlled substance by fraud,
28			forgery, misrepresentation, etc.
29	893.13(7)(a)10.	3rd	Affix false or forged label to
30			package of controlled substance.
31			16

1	893.13(7)(a)11.	3rd	Furnish false or fraudulent
2			material information on any
3			document or record required by
4			chapter 893.
5	893.13(8)(a)1.	3rd	Knowingly assist a patient, other
6			person, or owner of an animal in
7			obtaining a controlled substance
8			through deceptive, untrue, or
9			fraudulent representations in or
10			related to the practitioner's
11			practice.
12	893.13(8)(a)2.	3rd	Employ a trick or scheme in the
13			practitioner's practice to assist
14			a patient, other person, or owner
15			of an animal in obtaining a
16			controlled substance.
17	893.13(8)(a)3.	3rd	Knowingly write a prescription
18			for a controlled substance for a
19			fictitious person.
20	893.13(8)(a)4.	3rd	Write a prescription for a
21			controlled substance for a
22			patient, other person, or an
23			animal if the sole purpose of
24			writing the prescription is a
25			monetary benefit for the
26			practitioner.
27	918.13(1)(a)	3rd	Alter, destroy, or conceal
28			investigation evidence.
29	944.47(1)(a)12.	3rd	Introduce contraband to
30			correctional facility.
31			

1	944.47(1)(c)	2nd	Possess contraband while upon the		
2			grounds of a correctional		
3			institution.		
4	985.3141	3rd	Escapes from a juvenile facility		
5			(secure detention or residential		
6			commitment facility).		
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8					
9	=======================================	r I T L E	A M E N D M E N T ========		
10	And the title is a	amended as	s follows:		
11	Delete eve	rything be	efore the enacting clause		
12					
13	and insert:				
14		A bill	to be entitled		
15	An act rela	ating to a	a review under the Open		
16	Government Sunset Review Act regarding motor				
17	vehicle crash reports; amending s. 316.003,				
18	F.S.; revis	sing the d	definition of "victim		
19	services p	rograms" †	to include only		
20	organizations that are qualified for nonprofit				
21	status unde	er s. 501	(c)(3) of the United States		
22	Internal Re	evenue Coo	de and have a valid		
23	consumer's	certifica	ate of exemption issued to		
24	the organiz	zation by	the Department of Revenue;		
25	amending s	. 316.066	, F.S., which provides an		
26	exemption t	from publ:	ic records requirements for		
27	required mo	otor vehic	cle crash reports that		
28	reveal the	identity	, home or employment		
29	telephone n	number, o	r home or employment address		
30	of, or othe	er persona	al information concerning,		
31	parties in	volved in	a motor vehicle crash and		
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1	that are held by any agency that regularly
2	receives or prepares information from or
3	concerning the parties to motor vehicle
4	crashes; creating a public-records exemption
5	for uniform traffic citations related to a
6	motor vehicle crash; providing that such
7	citations be made immediately available to
8	certain parties; reorganizing provisions,
9	making editorial and conforming changes, and
10	removing superfluous language; providing for
11	the future review and repeal of the exemption
12	under the Open Government Sunset Review Act;
13	providing a statement of public necessity;
14	amending ss. 324.051 and 921.0022, F.S.;
15	conforming cross-references; providing an
16	effective date.
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