

1                                   A bill to be entitled  
2           An act relating to public records; amending s.  
3           316.066, F.S.; providing an exemption from  
4           public-records requirements for motor vehicle  
5           crash reports that reveal specified  
6           information; providing that such reports may be  
7           made available to certain parties; providing  
8           for future review and repeal; providing  
9           penalties for the unlawful disclosure of  
10          confidential information and for unlawfully  
11          obtaining or attempting to obtain confidential  
12          information; providing findings of public  
13          necessity; providing an effective date.

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

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17           Section 1. Paragraph (c) of subsection (3) of section  
18   316.066, Florida Statutes, is amended, and paragraphs (d) and  
19   (e) are added to that subsection, to read:

20           316.066   Written reports of crashes.--  
21           (3)

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

1 involved in the crash, their legal representatives, their  
2 licensed insurance agents, their insurers or insurers to which  
3 they have applied for coverage, persons under contract with  
4 such insurers to provide claims or underwriting information,  
5 prosecutorial authorities, radio and television stations  
6 licensed by the Federal Communications Commission, newspapers  
7 qualified to publish legal notices under ss. 50.011 and  
8 50.031, and free newspapers of general circulation, published  
9 once a week or more often, available and of interest to the  
10 public generally for the dissemination of news. For the  
11 purposes of this section, the following products or  
12 publications are not newspapers as referred to in this  
13 section: those intended primarily for members of a particular  
14 profession or occupational group; those with the primary  
15 purpose of distributing advertising; and those with the  
16 primary purpose of publishing names and other personally  
17 identifying information concerning parties to motor vehicle  
18 crashes. Any state or federal agency that is authorized to  
19 have access to such reports by any provision of law shall be  
20 granted such access in the furtherance of the agency's  
21 statutory duties notwithstanding the provisions of this  
22 paragraph. Any person attempting to access crash reports  
23 within 60 days after the date the report is filed must present  
24 legitimate credentials or identification that demonstrates his  
25 or her qualifications to access that information. This  
26 exemption is subject to the Open Government Sunset Review Act  
27 of 1995 in accordance with s. 119.15, and shall stand repealed  
28 on October 2, 2006, unless reviewed and saved from repeal  
29 through reenactment by the Legislature.~~Crash reports made by~~  
30 ~~law enforcement officers shall not be used for commercial~~  
31 ~~solicitation purposes; however, the use of a crash report for~~

1 ~~purposes of publication in a newspaper or other news~~  
2 ~~periodical or a radio or television broadcast shall not be~~  
3 ~~construed as "commercial purpose."~~

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

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

15 Section 2. The Legislature finds that there is a  
16 public necessity that portions of crash reports which are  
17 mandated to be provided by law and which reveal personal  
18 information concerning parties to motor vehicle crashes be  
19 held confidential and exempt for 60 days after the date the  
20 report is filed to protect the privacy of persons that have  
21 been the subject of a motor vehicle crash. Further, the  
22 exemption is necessary to protect the public from unscrupulous  
23 individuals who promote the filing of fraudulent insurance  
24 claims by obtaining such information immediately after a crash  
25 and exploiting the individual at a time of emotional distress.  
26 The Second Interim Report of the Fifteenth Statewide Grand  
27 Jury on insurance fraud related to personal injury protection  
28 noted a "strong correlation between illegal solicitation and  
29 the commission of a variety of frauds." The grand jury found  
30 "the wholesale availability of these reports is a major  
31 contributing factor to this illegal activity and likely the

1 single biggest factor contributing to the high level of  
2 illegal solicitation." Virtually anyone involved in a car  
3 accident in the state is fair game for "runners" who collect  
4 crash reports in bulk from law enforcement officials and then  
5 provide the information to solicit crash victims and defraud  
6 insurers. Continuing to make this information available, in  
7 the words of the grand jury, "can be emotionally, physically,  
8 and ultimately financially destructive." Motor vehicle  
9 insurance fraud is estimated to add as much as \$246 to the  
10 average motor vehicle insurance policy premium. In the past 5  
11 years, the Department of Insurance has received nearly 5,000  
12 referrals of personal injury protection (PIP) insurance fraud  
13 and has made more than 500 arrests, resulting in an 80-percent  
14 conviction rate. Motor vehicle insurance fraud is fueled by  
15 early access to crash reports, which provides the opportunity  
16 for the filing of fraudulent insurance claims. Crash reports  
17 made by law enforcement officers should not be used for  
18 commercial solicitation purposes; however, the use of a crash  
19 report for purposes of publication in a newspaper or other  
20 news periodical or a radio or television broadcast may not be  
21 construed as a "commercial purpose." The Legislature also  
22 finds that crash reports should be made available to certain  
23 parties, such as those persons involved in the motor vehicle  
24 crash and their legal representatives, their insurers or  
25 insurers to which they have applied for coverage, their  
26 licensed insurance agents, persons under contract with such  
27 insurers to provide claims or underwriting information, and  
28 representatives of law enforcement and other regulatory  
29 agencies, and prosecutorial authorities within 60 days after  
30 the crash report is filed.

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