

597-1591A-06

1 A bill to be entitled  
2 An act relating to public records; amending s.  
3 316.003, F.S.; revising the definition of  
4 "victim services programs" to include only  
5 organizations that are qualified for nonprofit  
6 status under s. 501(c)(3) of the United States  
7 Internal Revenue Code and have a valid  
8 consumer's certificate of exemption issued to  
9 the organization by the Department of Revenue;  
10 amending s. 316.066, F.S.; creating a  
11 public-records exemption for uniform traffic  
12 citations related to a motor vehicle crash;  
13 providing that such citations be made  
14 immediately available to certain parties;  
15 requiring that a victim services program meet  
16 the definition contained in ch. 316, F.S., in  
17 order to have immediate access to a crash  
18 report or uniform traffic citation; providing  
19 for the future review and repeal of the  
20 exemption under the Open Government Sunset  
21 Review Act; providing a statement of public  
22 necessity; providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Subsection (85) of section 316.003, Florida  
27 Statutes, is amended to read:

28 316.003 Definitions.--The following words and phrases,  
29 when used in this chapter, shall have the meanings  
30 respectively ascribed to them in this section, except where  
31 the context otherwise requires:

1 (85) VICTIM SERVICES ~~PROGRAM~~ PROGRAMS.--Any  
2 community-based organization whose primary purpose is to act  
3 as an advocate for the victims and survivors of traffic  
4 crashes and for their families on a statewide basis. The  
5 victims services offered by these programs may include grief  
6 and crisis counseling, assistance with preparing victim  
7 compensation claims excluding third-party legal action, ~~or~~  
8 connecting persons with other service providers, and providing  
9 emergency financial assistance. The community-based  
10 organization must be qualified for nonprofit status under the  
11 provisions of s. 501(c)(3) of the United States Internal  
12 Review Code and have a valid consumer's certificate of  
13 exemption issued to the organization by the Department of  
14 Revenue.

15 Section 2. Subsection (3) of section 316.066, Florida  
16 Statutes, is amended to read:

17 316.066 Written reports of crashes.--

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

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

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

28 3. In which crash a vehicle was rendered inoperative  
29 to a degree which required a wrecker to remove it from traffic  
30 may, within 10 days after completing the investigation,  
31 forward a written report of the crash to the department or

1 traffic records center if such action is appropriate, in the  
2 officer's discretion.

3  
4 However, in every case in which a crash report is required by  
5 this section and a written report to a law enforcement officer  
6 is not prepared, the law enforcement officer shall provide  
7 each party involved in the crash a short-form report,  
8 prescribed by the state, to be completed by the party. The  
9 short-form report must include, but is not limited to: the  
10 date, time, and location of the crash; a description of the  
11 vehicles involved; the names and addresses of the parties  
12 involved; the names and addresses of witnesses; the name,  
13 badge number, and law enforcement agency of the officer  
14 investigating the crash; and the names of the insurance  
15 companies for the respective parties involved in the crash.  
16 Each party to the crash shall provide the law enforcement  
17 officer with proof of insurance to be included in the crash  
18 report. If a law enforcement officer submits a report on the  
19 accident, proof of insurance must be provided to the officer  
20 by each party involved in the crash. Any party who fails to  
21 provide the required information is guilty of an infraction  
22 for a nonmoving violation, punishable as provided in chapter  
23 318 unless the officer determines that due to injuries or  
24 other special circumstances such insurance information cannot  
25 be provided immediately. If the person provides the law  
26 enforcement agency, within 24 hours after the crash, proof of  
27 insurance that was valid at the time of the crash, the law  
28 enforcement agency may void the citation.

29 (b) One or more counties may enter into an agreement  
30 with the appropriate state agency to be certified by the  
31 agency to have a traffic records center for the purpose of

1 | tabulating and analyzing countywide traffic crash reports. The  
2 | agreement must include: certification by the agency that the  
3 | center has adequate auditing and monitoring mechanisms in  
4 | place to ensure the quality and accuracy of the data; the time  
5 | period in which the traffic records center must report crash  
6 | data to the agency; and the medium in which the traffic  
7 | records must be submitted to the agency. In the case of a  
8 | county or multicounty area that has a certified central  
9 | traffic records center, a law enforcement agency or driver  
10 | must submit to the center within the time limit prescribed in  
11 | this section a written report of the crash. A driver who is  
12 | required to file a crash report must be notified of the proper  
13 | place to submit the completed report. Fees for copies of  
14 | public records provided by a certified traffic records center  
15 | shall be charged and collected as follows:

- 16 |  
17 |       For a crash report.....\$2 per copy.  
18 |       For a homicide report.....\$25 per copy.  
19 |       For a uniform traffic citation.....\$0.50 per copy.

20 |  
21 | The fees collected for copies of the public records provided  
22 | by a certified traffic records center shall be used to fund  
23 | the center or otherwise as designated by the county or  
24 | counties participating in the center.

25 |       (c) Crash reports required by this section and the  
26 | uniform traffic citations (HSMV75901) associated with such  
27 | crashes and crash investigations which reveal the identity,  
28 | home or employment telephone number or home or employment  
29 | address of, or other personal information concerning the  
30 | parties involved in the crash and which are received or  
31 | prepared by any agency that regularly receives or prepares

1 information from or concerning the parties to motor vehicle  
2 crashes are confidential and exempt from s. 119.07(1) and s.  
3 24(a), Art. I of the State Constitution for a period of 60  
4 days after the date the report is filed. However, such reports  
5 and citations may be made immediately available to the parties  
6 involved in the crash, their legal representatives, their  
7 licensed insurance agents, their insurers or insurers to which  
8 they have applied for coverage, persons under contract with  
9 such insurers to provide claims or underwriting information,  
10 prosecutorial authorities, victim services programs as defined  
11 in s. 316.003, radio and television stations licensed by the  
12 Federal Communications Commission, newspapers qualified to  
13 publish legal notices under ss. 50.011 and 50.031, and free  
14 newspapers of general circulation, published once a week or  
15 more often, available and of interest to the public generally  
16 for the dissemination of news. For the purposes of this  
17 section, the following products or publications are not  
18 newspapers as referred to in this section: those intended  
19 primarily for members of a particular profession or  
20 occupational group; those with the primary purpose of  
21 distributing advertising; and those with the primary purpose  
22 of publishing names and other personal identifying information  
23 concerning parties to motor vehicle crashes. Any local, state,  
24 or federal agency, victim services program as defined in s.  
25 316.003, agent, or employee that is authorized to have access  
26 to such reports and citations by any provision of law shall be  
27 granted such access in the furtherance of the agency's  
28 statutory duties notwithstanding the provisions of this  
29 paragraph. Any local, state, or federal agency, agent, or  
30 employee receiving such crash reports and uniform traffic  
31 citations shall maintain the confidential and exempt status of

1 | those reports and citations and shall not disclose such crash  
2 | reports or uniform traffic citations to any person or entity.  
3 | As a condition precedent to accessing a crash report or  
4 | uniform traffic citation within 60 days after the date the  
5 | report is filed, a person must present a valid driver's  
6 | license or other photographic identification, proof of status,  
7 | or identification that demonstrates his or her qualifications  
8 | to access that information, and file a written sworn statement  
9 | with the state or local agency in possession of the  
10 | information stating that information from a crash report or  
11 | uniform traffic citation made confidential by this section  
12 | will not be used for any commercial solicitation of accident  
13 | victims, or knowingly disclosed to any third party for the  
14 | purpose of such solicitation, during the period of time that  
15 | the information remains confidential. In lieu of requiring the  
16 | written sworn statement, an agency may provide crash reports  
17 | or uniform traffic citations by electronic means to  
18 | third-party vendors under contract with one or more insurers,  
19 | but only when such contract states that information from a  
20 | crash report or uniform traffic citation made confidential by  
21 | this section will not be used for any commercial solicitation  
22 | of accident victims by the vendors, or knowingly disclosed by  
23 | the vendors to any third party for the purpose of such  
24 | solicitation, during the period of time that the information  
25 | remains confidential, and only when a copy of such contract is  
26 | furnished to the agency as proof of the vendor's claimed  
27 | status. This subsection does not prevent the dissemination or  
28 | publication of news to the general public by any legitimate  
29 | media entitled to access confidential information pursuant to  
30 | this section. A law enforcement officer as defined in s.  
31 | 943.10(1) may enforce this subsection. This exemption is

1 subject to the Open Government Sunset Review Act ~~of 1995~~ in  
2 accordance with s. 119.15, and shall stand repealed on October  
3 2, 2011 ~~2006~~, unless reviewed and saved from repeal through  
4 reenactment by the Legislature.

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

11 (e) Any person, knowing that he or she is not entitled  
12 to obtain information made confidential by this section, who  
13 obtains or attempts to obtain such information is guilty of a  
14 felony of the third degree, punishable as provided in s.  
15 775.082, s. 775.083, or s. 775.084.

16 (f) Any person who knowingly uses confidential  
17 information in violation of a filed written sworn statement or  
18 contractual agreement required by this section commits a  
19 felony of the third degree, punishable as provided in s.  
20 775.082, s. 775.083, or s. 775.084.

21 Section 3. The Legislature finds that there is a  
22 public necessity that uniform traffic citations and portions  
23 of crash reports which are mandated to be provided by law  
24 immediately to certain parties as specified in s. 316.066,  
25 Florida Statutes, be held confidential and exempt for 60 days  
26 after the date the report or citation is filed to protect the  
27 privacy of persons that have been the subject of a motor  
28 vehicle crash report. Further, the exemption is necessary to  
29 protect the public from unscrupulous individuals who promote  
30 the filing of fraudulent insurance claims by obtaining such  
31 information immediately after a crash and exploiting a crash

1 victim at a time of emotional distress. The Second Interim  
2 Report of the Fifteenth Statewide Grand Jury on insurance  
3 fraud related to personal injury protection noted a "strong  
4 correlation" between illegal solicitation and the commission  
5 of a variety of frauds. The grand jury found "the wholesale  
6 availability of these reports is a major contributing factor  
7 to this illegal activity and likely the single biggest factor  
8 contributing to the high level of illegal solicitation."  
9 Virtually anyone involved in a car accident in the state is  
10 fair game for "runners" who collect crash reports within the  
11 60-day public-records-exemption period under false pretenses  
12 from law enforcement officials and then provide the  
13 information to solicit crash victims and defraud insurers.  
14 Continuing to make this information available, in the words of  
15 the grand jury, "can be emotionally, physically, and  
16 ultimately financially destructive." The 2003 Senate Select  
17 Committee on Automobile Insurance/PIP Reform found that  
18 despite reforms enacted in 1998 and 2001, fraud continues to  
19 permeate the PIP insurance market in Florida. Referrals to the  
20 Division of Insurance Fraud for personal injury protection  
21 fraud increased over 400 percent from 2002-2003 to 2004-2005.  
22 Motor vehicle insurance fraud is fueled by early access to  
23 crash reports and uniform traffic citations, which provides  
24 the opportunity for the filing of fraudulent insurance claims.  
25 Crash reports and uniform traffic citations made by law  
26 enforcement officers should not be used for commercial  
27 solicitation purposes. However, the use of a crash report by a  
28 victim services program that is qualified for nonprofit status  
29 under s. 501(c)(3) of the Internal Revenue Code and has a  
30 valid certificate of exemption which was issued to the program  
31 by the Department of Revenue and acts as an advocate for the



1 victims and survivors of traffic crashes and their families  
2 may not be construed as a "commercial purpose." Such programs  
3 act as an advocate for the victims and survivors of traffic  
4 crashes and their families by providing services such as grief  
5 and crisis counseling, assistance with preparing victim  
6 compensation claims excluding third-party legal action,  
7 connecting persons with other service providers, and providing  
8 emergency financial assistance. The Legislature finds that  
9 crash reports should be made immediately available to  
10 nonprofit victim services programs. The Legislature also finds  
11 that uniform traffic citations should be made immediately  
12 available to certain parties, such as those persons involved  
13 in the motor vehicle crash and their legal representatives,  
14 their insurers or insurers to which they have applied for  
15 coverage, their licensed insurance agents, persons under  
16 contract with such insurers to provide claims or underwriting  
17 information, victim services programs, and representatives of  
18 law enforcement agencies and other regulatory agencies, and  
19 prosecutorial authorities within 60 days after the crash  
20 report is filed.

21 Section 4. This act shall take effect upon becoming a  
22 law.

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25 SENATE SUMMARY

26 Redefines the term "victim services program" to require  
27 that such a program provide services statewide and be a  
28 nonprofit organization that holds a consumer's  
29 certificate of exemption from the Department of Revenue.  
30 Revises an exemption from public-records requirements so  
31 that immediate access to crash reports or uniform traffic  
citations by victim services programs is limited to those  
that qualify as nonprofit organizations. Provides for  
repeal and future legislative review of the exemption.