${\bf By}$ the Committees on Governmental Oversight and Productivity; and Transportation

585-2172-06

1	A bill to be entitled
2	An act relating to a review under the Open
3	Government Sunset Review Act regarding motor
4	vehicle crash reports; amending s. 316.003,
5	F.S.; revising the definition of "victim
6	services programs" to include only
7	organizations that are qualified for nonprofit
8	status under s. 501(c)(3) of the United States
9	Internal Revenue Code and have a valid
10	consumer's certificate of exemption issued to
11	the organization by the Department of Revenue;
12	amending s. 316.066, F.S., which provides an
13	exemption from public records requirements for
14	required motor vehicle crash reports that
15	reveal the identity, home or employment
16	telephone number, or home or employment address
17	of, or other personal information concerning,
18	parties involved in a motor vehicle crash and
19	that are held by any agency that regularly
20	receives or prepares information from or
21	concerning the parties to motor vehicle
22	crashes; creating a public-records exemption
23	for uniform traffic citations related to a
24	motor vehicle crash; providing that such
25	citations be made immediately available to
26	certain parties; reorganizing provisions,
27	making editorial and conforming changes, and
28	removing superfluous language; providing for
29	the future review and repeal of the exemption
30	under the Open Government Sunset Review Act;
31	providing a statement of public necessity;

amending ss. 324.051 and 921.0022, F.S.; 2 conforming cross-references; providing an 3 effective date. 4 Be It Enacted by the Legislature of the State of Florida: 5 6 7 Section 1. Subsection (85) of section 316.003, Florida 8 Statutes, is amended to read: 316.003 Definitions.--The following words and phrases, 9 10 when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where 11 12 the context otherwise requires: 13 (85) VICTIM SERVICES PROGRAM PROGRAMS. -- Any community-based organization whose primary purpose is to act 14 as an advocate for the victims and survivors of traffic 15 crashes and for their families on a statewide basis. The 16 victims services offered by these programs may include grief 18 and crisis counseling, assistance with preparing victim compensation claims excluding third-party legal action, or 19 connecting persons with other service providers, and providing 20 21 emergency financial assistance. The community-based 22 organization must be qualified for nonprofit status under the 23 provisions of s. 501(c)(3) of the United States Internal Review Code and have a valid consumer's certificate of 2.4 exemption issued to the organization by the Department of 25 Revenue. 26 27 Section 2. Section 316.066, Florida Statutes, is 2.8 amended to read: 316.066 Written reports of crashes.--29 (1) The driver of a vehicle which is in any manner 30 involved in a crash resulting in bodily injury to or death of

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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 <u>subsection paragraph</u> (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.

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- (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;
- $\underline{5}$. The name, badge number, and law enforcement agency of the officer investigating the crash; and
- $\underline{6.}$ The names of the insurance companies for the respective parties involved in the crash.
- 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.

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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)(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

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are <u>held received or prepared</u> 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 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 <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

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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 contract with one or more insurers, but only when such contract states 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 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.

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(e) This subsection does not prevent the dissemination 2 or publication of news to the general public by any legitimate media entitled to access confidential and exempt information 3 pursuant to this section. A law enforcement officer as defined 4 5 in s. 943.10(1) may enforce this subsection. 6 (f) This exemption is subject to the Open Government 7 Sunset Review Act of 1995 in accordance with s. 119.15, and 8 shall stand repealed on October 2, 2011 2006, unless reviewed 9 and saved from repeal through reenactment by the Legislature. (6)(a)(d) Any driver failing to file the written 10 report required under subsection (1) or subsection (2) commits 11 12 a noncriminal traffic infraction, punishable as a nonmoving 13 violation as provided in chapter 318. (b) Any employee of a state or local agency in 14 possession of information made confidential and exempt by this 15 section who knowingly discloses such confidential and exempt 16 information to a person not entitled to access such 18 information under this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 19 775.083, or s. 775.084. 20 21 (c)(e) Any person, knowing that he or she is not 22 entitled to obtain information made confidential and exempt by 23 this section, who obtains or attempts to obtain such information is guilty of a felony of the third degree, 2.4

(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.

punishable as provided in s. 775.082, s. 775.083, or s.

1	(7)(4) Except as specified in this subsection, each					
2	crash report made by a person involved in a crash and any					
3	statement made by such person to a law enforcement officer for					
4	the purpose of completing a crash report required by this					
5	section shall be without prejudice to the individual so					
6	reporting. No such report or statement shall be used as					
7	evidence in any trial, civil or criminal. However, subject to					
8	the applicable rules of evidence, a law enforcement officer at					
9	a criminal trial may testify as to any statement made to the					
10	officer by the person involved in the crash if that person's					
11	privilege against self-incrimination is not violated. The					
12	results of breath, urine, and blood tests administered as					
13	provided in s. 316.1932 or s. 316.1933 are not confidential					
14	and shall be admissible into evidence in accordance with the					
15	provisions of s. 316.1934(2). Crash reports made by persons					
16	involved in crashes shall not be used for commercial					
17	solicitation purposes; however, the use of a crash report for					
18	purposes of publication in a newspaper or other news					
19	periodical or a radio or television broadcast shall not be					
20	construed as "commercial purpose."					
21	(8) A law enforcement officer, as defined in s.					
22	943.10(1), may enforce this section.					
23	(5) For purposes of this section, a written report					
24	includes a report generated by a law enforcement agency					
25	through the use of a computer.					
26	(6) Any driver failing to file the written report					
27	required under subsection (1) or subsection (2) commits a					
28	noncriminal traffic infraction, punishable as a nonmoving					
29	violation as provided in chapter 318.					

31 public necessity that uniform traffic citations and portions

Section 3. The Legislature finds that there is a

of crash reports which are mandated to be provided by law 2 immediately to certain parties as specified in s. 316.066, Florida Statutes, be held confidential and exempt for 60 days 3 4 after the date the report or citation is filed to protect the privacy of persons that have been the subject of a motor 5 6 vehicle crash report. Further, the exemption is necessary to 7 protect the public from unscrupulous individuals who promote the filing of fraudulent insurance claims by obtaining such 8 information immediately after a crash and exploiting a crash 9 10 victim at a time of emotional distress. The Second Interim Report of the Fifteenth Statewide Grand Jury on insurance 11 12 fraud related to personal injury protection noted a "strong 13 correlation" between illegal solicitation and the commission of a variety of frauds. The grand jury found "the wholesale 14 availability of these reports is a major contributing factor 15 to this illegal activity and likely the single biggest factor 16 contributing to the high level of illegal solicitation." 18 Virtually anyone involved in a car accident in the state is fair game for "runners" who collect crash reports within the 19 60-day public-records-exemption period under false pretenses 2.0 21 from law enforcement officials and then provide the information to solicit crash victims and defraud insurers. 2.2 23 Continuing to make this information available, in the words of the grand jury, "can be emotionally, physically, and 2.4 ultimately financially destructive. " The 2003 Senate Select 2.5 Committee on Automobile Insurance/PIP Reform found that 26 2.7 despite reforms enacted in 1998 and 2001, fraud continues to 2.8 permeate the PIP insurance market in Florida. Referrals to the Division of Insurance Fraud for personal injury protection 29 fraud increased over 400 percent from 2002-2003 to 2004-2005. 30 Motor vehicle insurance fraud is fueled by early access to 31

crash reports and uniform traffic citations, which provides 2 the opportunity for the filing of fraudulent insurance claims. Crash reports and uniform traffic citations made by law 3 4 enforcement officers should not be used for commercial solicitation purposes. However, the use of a crash report by a 5 6 victim services program that is qualified for nonprofit status 7 under s. 501(c)(3) of the Internal Revenue Code and has a 8 valid certificate of exemption which was issued to the program by the Department of Revenue and acts as an advocate for the 9 10 victims and survivors of traffic crashes and their families may not be construed as a "commercial purpose." Such programs 11 12 act as an advocate for the victims and survivors of traffic 13 crashes and their families by providing services such as grief and crisis counseling, assistance with preparing victim 14 compensation claims excluding third-party legal action, 15 connecting persons with other service providers, and providing 16 emergency financial assistance. The Legislature finds that 18 crash reports should be made immediately available to nonprofit victim services programs. The Legislature also finds 19 that uniform traffic citations should be made immediately 2.0 21 available to certain parties, such as those persons involved 2.2 in the motor vehicle crash and their legal representatives, 23 their insurers or insurers to which they have applied for coverage, their licensed insurance agents, persons under 2.4 contract with such insurers to provide claims or underwriting 2.5 information, victim services programs, and representatives of 26 2.7 law enforcement agencies and other regulatory agencies, and 2.8 prosecutorial authorities within 60 days after the crash report is filed. 29 Section 4. Paragraph (a) of subsection (1) of section 30 324.051, Florida Statutes, is amended to read: 31

1	324.051 Reports of crashes; suspensions of licenses				
2	and registrations				
3	(1)(a) Every law enforcement officer who, in the				
4	regular course of duty either at the time of and at the scene				
5	of the crash or thereafter by interviewing participants or				
6	witnesses, investigates a motor vehicle crash which he or she				
7	is required to report pursuant to s. $316.066(3)$ (a) shall				
8	forward a written report of the crash to the department within				
9	10 days of completing the investigation. However, when the				
10	investigation of a crash will take more than 10 days to				
11	complete, a preliminary copy of the crash report shall be				
12	forwarded to the department within 10 days of the occurrence				
13	of the crash, to be followed by a final report within 10 days				
14	after completion of the investigation. The report shall be on				
15	a form and contain information consistent with the				
16	requirements of s. 316.068.				
17	Section 5. Paragraph (c) of subsection (3) of section				
18	921.0022, Florida Statutes, is amended to read:				
19	921.0022 Criminal Punishment Code; offense severity				
20	ranking chart				
21	(3) OFFENSE SEVERITY RANKING CHART				
22	Florida Felony Description				
23	Statute Degree				
24	(c) LEVEL 3				
25	119.10(2)(b) 3rd Unlawful use of confidential				
26	information from police reports.				
27	316.066 <u>(6)(b)-(d)</u>				
28	$\frac{(3)(d)(f)}{(f)}$ 3rd Unlawfully obtaining or using				
29	confidential crash reports.				
30	316.193(2)(b) 3rd Felony DUI, 3rd conviction.				
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1	316.1935(2)	3rd	Fleeing or attempting to elude
2			law enforcement officer in patrol
3			vehicle with siren and lights
4			activated.
5	319.30(4)	3rd	Possession by junkyard of motor
6			vehicle with identification
7			number plate removed.
8	319.33(1)(a)	3rd	Alter or forge any certificate of
9			title to a motor vehicle or
10			mobile home.
11	319.33(1)(c)	3rd	Procure or pass title on stolen
12			vehicle.
13	319.33(4)	3rd	With intent to defraud, possess,
14			sell, etc., a blank, forged, or
15			unlawfully obtained title or
16			registration.
17	327.35(2)(b)	3rd	Felony BUI.
18	328.05(2)	3rd	Possess, sell, or counterfeit
19			fictitious, stolen, or fraudulent
20			titles or bills of sale of
21			vessels.
22	328.07(4)	3rd	Manufacture, exchange, or possess
23			vessel with counterfeit or wrong
24			ID number.
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1	370.12(1)(e)5.	3rd	Taking, disturbing, mutilating,
2			destroying, causing to be
3			destroyed, transferring, selling,
4			offering to sell, molesting, or
5			harassing marine turtles, marine
6			turtle eggs, or marine turtle
7			nests in violation of the Marine
8			Turtle Protection Act.
9	370.12(1)(e)6.	3rd	Soliciting to commit or
10			conspiring to commit a violation
11			of the Marine Turtle Protection
12			Act.
13	376.302(5)	3rd	Fraud related to reimbursement
14			for cleanup expenses under the
15			Inland Protection Trust Fund.
16	400.903(3)	3rd	Operating a clinic without a
17			license or filing false license
18			application or other required
19			information.
20	440.105(3)(b)	3rd	Receipt of fee or consideration
21			without approval by judge of
22			compensation claims.
23	440.1051(3)	3rd	False report of workers'
24			compensation fraud or retaliation
25			for making such a report.
26	501.001(2)(b)	2nd	Tampers with a consumer product
27			or the container using materially
28			false/misleading information.
29	624.401(4)(a)	3rd	Transacting insurance without a
30			certificate of authority.
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1	624.401(4)(b)1.	3rd	Transacting insurance without a
2	, , , ,		certificate of authority; premium
3			collected less than \$20,000.
4	626.902(1)(a) & (b)3rd	Representing an unauthorized
5			insurer.
6	697.08	3rd	Equity skimming.
7	790.15(3)	3rd	Person directs another to
8			discharge firearm from a vehicle.
9	796.05(1)	3rd	Live on earnings of a prostitute.
10	806.10(1)	3rd	Maliciously injure, destroy, or
11			interfere with vehicles or
12			equipment used in firefighting.
13	806.10(2)	3rd	Interferes with or assaults
14			firefighter in performance of
15			duty.
16	810.09(2)(c)	3rd	Trespass on property other than
17			structure or conveyance armed
18			with firearm or dangerous weapon.
19	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
20			less than \$10,000.
21	812.0145(2)(c)	3rd	Theft from person 65 years of age
22			or older; \$300 or more but less
23			than \$10,000.
24	815.04(4)(b)	2nd	Computer offense devised to
25			defraud or obtain property.
26	817.034(4)(a)3.	3rd	Engages in scheme to defraud
27			(Florida Communications Fraud
28			Act), property valued at less
29			than \$20,000.
30	817.233	3rd	Burning to defraud insurer.
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1	817.234(8)(b)-(c)	3rd	Unlawful solicitation of persons
2			involved in motor vehicle
3			accidents.
4	817.234(11)(a)	3rd	Insurance fraud; property value
5			less than \$20,000.
6	817.236	3rd	Filing a false motor vehicle
7			insurance application.
8	817.2361	3rd	Creating, marketing, or
9			presenting a false or fraudulent
10			motor vehicle insurance card.
11	817.413(2)	3rd	Sale of used goods as new.
12	817.505(4)	3rd	Patient brokering.
13	828.12(2)	3rd	Tortures any animal with intent
14			to inflict intense pain, serious
15			physical injury, or death.
16	831.28(2)(a)	3rd	Counterfeiting a payment
17			instrument with intent to defraud
18			or possessing a counterfeit
19			payment instrument.
20	831.29	2nd	Possession of instruments for
21			counterfeiting drivers' licenses
22			or identification cards.
23	838.021(3)(b)	3rd	Threatens unlawful harm to public
24			servant.
25	843.19	3rd	Injure, disable, or kill police
26			dog or horse.
27	860.15(3)	3rd	Overcharging for repairs and
28			parts.
29	870.01(2)	3rd	Riot; inciting or encouraging.
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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.
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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.
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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).
7	Section 6.	This act	shall take effect October 1, 2006.
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9	STATEMENT		NTIAL CHANGES CONTAINED IN E SUBSTITUTE FOR
10			te Bill 712
11			
12	Reorganizes the ex	emption f	or clarity.
13	Expands the exempt	ion by na	rrowing the definition of "victim gible to receive access to the
14	exempt records.	TOHS EII	gible to receive access to the
15	Expands the exemption to include uniform traffic citations		
16	associated with crashes and crash investigations. Provides a statement of public necessity to support the		
17	expansion of the exemption.		
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