

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Government Operations
2 Subcommittee

3 Representative Brannan offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsections (2) and (3) of section 316.066,
8 Florida Statutes, are amended to read:

9 316.066 Written reports of crashes.—

10 (2)(a) Crash reports that reveal the identity, home or
11 employment telephone number or home or employment address of, or
12 other personal information concerning the parties involved in
13 the crash and that are held by an any agency, as defined in s.
14 119.011, that regularly receives or prepares information from or
15 concerning the parties to motor vehicle crashes are confidential
16 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State

Amendment No.

17 Constitution for a period of 60 days after the date the report
18 is filed.

19 (b) Crash reports held by an agency under paragraph (a)
20 may be made immediately available to the parties involved in the
21 crash, their legal representatives, their licensed insurance
22 agents, their insurers or insurers to which they have applied
23 for coverage, persons under contract with such insurers to
24 provide claims or underwriting information, ~~prosecutorial~~
25 ~~authorities, law enforcement agencies, the Department of~~
26 ~~Transportation, county traffic operations,~~ victim services
27 programs, ~~radio and television stations licensed by the Federal~~
28 ~~Communications Commission, newspapers qualified to publish legal~~
29 ~~notices under ss. 50.011 and 50.031,~~ and any federal, state, or
30 local governmental agency or any private person or entity acting
31 on behalf of a federal, state, or local governmental agency in
32 carrying out its functions, but not for redistribution to any
33 person or entity not listed in this subsection. Crash reports
34 held by an agency under paragraph (a) that do not contain the
35 home or employment street addresses, driver license or
36 identification card numbers, dates of birth, and home and
37 employment telephone numbers of the parties involved in the
38 crash may be made immediately available to radio and television
39 stations licensed by the Federal Communications Commission and
40 newspapers qualified to publish legal notices under ss. 50.011
41 and 50.031. A crash report may also be made available to any

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Published On: 2/7/2022 4:58:19 PM

Amendment No.

42 third party acting on behalf of a person or entity authorized
43 under this section to access the crash report, except that the
44 third party may disclose the crash report only to the person or
45 entity authorized to access the crash report under this section
46 on whose behalf the third party has sought the report. ~~in~~
47 ~~accordance with paragraph (f), free newspapers of general~~
48 ~~circulation, published once a week or more often, of which at~~
49 ~~least 7,500 copies are distributed by mail or by carrier as~~
50 ~~verified by a postal statement or by a notarized printer's~~
51 ~~statement of press run, which are intended to be generally~~
52 ~~distributed and circulated, and which contain news of general~~
53 ~~interest with at least 10 pages per publication, available and~~
54 ~~of interest to the public generally for the dissemination of~~
55 ~~news. For the purposes of this section, the following products~~
56 ~~or publications are not newspapers as referred to in this~~
57 ~~section: those intended primarily for members of a particular~~
58 ~~profession or occupational group; those with the primary purpose~~
59 ~~of distributing advertising; and those with the primary purpose~~
60 ~~of publishing names and other personal identifying information~~
61 ~~concerning parties to motor vehicle crashes. This section shall~~
62 not prevent an agency, pursuant to a memorandum of
63 understanding, from providing data derived from crash reports to
64 a third party solely for the purpose of identifying vehicles
65 involved in crashes if such data does not reveal the identity,
66 home or employment telephone number or home or employment

719341 - h1121-strike.docx

Published On: 2/7/2022 4:58:19 PM

Amendment No.

67 address, or other personal information, as defined in s.
68 119.0712(2)(b) and 18 U.S.C. s. 2725(3), of the parties involved
69 in the crash.

70 (c) Any local, state, or federal agency that is
71 authorized to have access to crash reports by any provision of
72 law shall be granted such access in the furtherance of the
73 agency's statutory duties.

74 (d) As a condition precedent to accessing a crash report
75 ~~within 60 days after the date the report is filed,~~ a person must
76 present a valid driver license or other photographic
77 identification, proof of status, or identification that
78 demonstrates his or her qualifications to access that
79 information and file a written sworn statement with the state or
80 local agency in possession of the information stating that
81 information from a crash report made confidential and exempt by
82 this section will not be used for any commercial solicitation of
83 accident victims, or knowingly disclosed to any third party for
84 the purpose of such solicitation ~~during the period of time that~~
85 ~~the information remains confidential and exempt.~~ Such written
86 sworn statement must be completed and sworn to by the requesting
87 party for each individual crash report that is being requested
88 ~~within 60 days after the report is filed.~~ In lieu of requiring
89 the written sworn statement, an agency may provide crash reports
90 by electronic means pursuant to a memorandum of understanding to
91 third-party vendors under contract with one or more insurers,

719341 - h1121-strike.docx

Published On: 2/7/2022 4:58:19 PM

Amendment No.

92 but only when such contract states that information from a crash
93 report made confidential and exempt by this section will not be
94 used for any commercial solicitation of accident victims by the
95 vendors, or knowingly disclosed by the vendors to any third
96 party for the purpose of such solicitation, ~~during the period of~~
97 ~~time that the information remains confidential and exempt,~~ and
98 only when a copy of such contract is furnished to the agency as
99 proof of the vendor's claimed status.

100 (e) This subsection does not prevent the dissemination or
101 publication of news to the general public by any legitimate
102 media entitled to access confidential and exempt information
103 pursuant to this section.

104 (f) Crash reports held by an agency under paragraph (a)
105 may be made available 60 days after the date the report is filed
106 to any person or entity eligible to access crash reports under
107 paragraph (b), or in accordance with any of the permissible uses
108 listed in 18 U.S.C. s. 2721(b) and pursuant to the resale and
109 redisclosure requirements in 18 U.S.C. s. 2721(c). ~~Free~~
110 ~~newspapers of general circulation published once a week or more~~
111 ~~often, of which at least 7,500 copies are distributed by mail or~~
112 ~~by carrier as verified by a postal statement or by a notarized~~
113 ~~printer's statement of press run, which are intended to be~~
114 ~~generally distributed and circulated, which contain news of~~
115 ~~general interest with at least 10 pages per publication,~~
116 ~~available and of interest to the public generally for the~~

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Published On: 2/7/2022 4:58:19 PM

Amendment No.

117 ~~dissemination of news, and which request 10 or more crash~~
118 ~~reports within a 24-hour period before 60 days have elapsed~~
119 ~~after the report is filed may not have access to the home,~~
120 ~~cellular, employment, or other telephone number or the home or~~
121 ~~employment address of any of the parties involved in the crash.~~
122 ~~This paragraph is subject to the Open Government Sunset Review~~
123 ~~Act in accordance with s. 119.15 and shall stand repealed on~~
124 ~~October 2, 2019, unless reviewed and saved from repeal through~~
125 ~~reenactment by the Legislature.~~

126 (g) If crash reports are created by or submitted to an
127 agency electronically as data elements within a computerized
128 database, or if personal information from a crash report is
129 entered into a computerized database, such crash data held by an
130 agency is confidential and exempt from s. 119.07(1) and s.
131 24(a), Art. I of the State Constitution. Sixty days after the
132 date the crash report is filed, an agency may provide crash data
133 derived from the crash report which includes personal
134 information to entities eligible to access crash report under
135 paragraphs (b), or in accordance with any of the permissible
136 uses listed in 18 U.S.C. s. 2721(b) and pursuant to the resale
137 and redisclosure requirements in 18 U.S.C. s. 2721(c). Such data
138 shall be provided pursuant to a memorandum of understanding.

139 (h) This subsection is subject to the Open Government
140 Sunset Review Act in accordance with s 119.15 and shall stand

Amendment No.

141 repealed on October 2, 2027, unless reviewed and saved from
142 repeal through reenactment by the Legislature.

143 (3) (a) Any driver failing to file the written report
144 required under subsection (1) commits a noncriminal traffic
145 infraction, punishable as a nonmoving violation as provided in
146 chapter 318.

147 (b) Any employee of a state or local agency in possession
148 of information made confidential and exempt by this section who
149 knowingly discloses such confidential and exempt information to
150 a person not entitled to access such information under this
151 section commits a felony of the third degree, punishable as
152 provided in s. 775.082, s. 775.083, or s. 775.084.

153 (c) Any person, knowing that he or she is not entitled to
154 obtain information made confidential and exempt by this section,
155 who obtains or attempts to obtain such information commits a
156 felony of the third degree, punishable as provided in s.
157 775.082, s. 775.083, or s. 775.084.

158 (d) Any person who knowingly uses confidential and exempt
159 information in violation of a filed written sworn statement,
160 memorandum of understanding, or contractual agreement required
161 by this section commits a felony of the third degree, punishable
162 as provided in s. 775.082, s. 775.083, or s. 775.084.

163 (e) In addition to penalties outlined in paragraphs (c)
164 and (d), a person who obtains a crash report, or crash data, and

Amendment No.

165 who knowingly discloses or knowingly uses personal information
166 revealed in the report for a purpose not permitted
167 under 18 U.S.C. s. 2721(b) is liable to the individual to whom
168 the information pertains, who may bring a civil action in any
169 court of competent jurisdiction. The court may award:

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

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

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

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

178
179 This paragraph does not apply to radio and television stations
180 licensed by the Federal Communications Commission and newspapers
181 qualified to publish legal notices under ss. 50.011 and 50.031.

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

184 316.650 Traffic citations.—

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

Amendment No.

190 (b)1. Driver information contained in a uniform traffic
191 citation held by an agency is exempt from s. 119.07(1) and s.
192 24(a), Art. I of the State Constitution. This paragraph applies
193 to driver information held by an agency before, on, or after the
194 effective date of the exemption.

195 2. An agency may release driver information in accordance
196 with any of the permissible uses listed in 18 U.S.C. s. 2721(b)
197 in the same manner applicable to the release of personal
198 information contained in a motor vehicle record pursuant to s.
199 119.0712(2)(b).

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

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

213 Section 3. (1) The Legislature finds that it is a public
214 necessity that crash reports that reveal personal information

Amendment No.

215 concerning parties, passengers, and witnesses to a crash for a
216 period of 60 days after the date the crash report is filed with
217 an agency; such personal information revealed in crash reports
218 held by an agency following the 60-day period; and computerized
219 crash report data held by an agency be confidential and exempt
220 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
221 the State Constitution. Crash reports reveal significant
222 personal information, not only about parties involved in a crash
223 but also about passengers and other witnesses to the crash.
224 Pervasive use of the Internet and related technologies abet
225 those with malicious purposes in exploiting the use of personal
226 information revealed in crash reports, such as a party's,
227 passenger's, or witness's date of birth, driver license number,
228 and address, creating ever-expanding threats to privacy and
229 security never envisioned in generations past. Moreover, ever-
230 increasing use of information technology for the preparation,
231 submission, and management of crash reports has led agencies to
232 hold vast repositories of computerized crash report data, which
233 includes such personal information. Personal information, when
234 held by the Department of Highway Safety and Motor Vehicles in
235 driver license and motor vehicle records, is confidential
236 pursuant to the federal Driver's Privacy Protection Act of 1994,
237 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2), Florida
238 Statutes. These restrictions on disclosure of personal
239 information, however, have not applied to personal information

719341 - h1121-strike.docx

Published On: 2/7/2022 4:58:19 PM

Amendment No.

240 revealed in crash reports. When personal information revealed in
241 crash reports or computerized crash report data is made
242 available to the public, because it comprises much of the same
243 personal information contained in driver license and motor
244 vehicle records, the protections afforded by the federal
245 Driver's Privacy Protection Act of 1994 are significantly
246 undermined, eroding the privacy and safety of drivers.
247 Therefore, the Legislature finds that it is a public necessity
248 to make confidential and exempt from public records requirements
249 crash reports that reveal personal information concerning
250 parties, passengers, and witnesses to a crash for a period of 60
251 days after the date the crash report is filed with an agency;
252 such personal information revealed in crash reports held by an
253 agency following the 60-day period; and computerized crash
254 report data held by an agency.

255 (2) The Legislature finds that it is a public necessity
256 that driver information contained in a uniform traffic citation
257 held by an agency be exempt from s. 119.07(1), Florida Statutes,
258 and s. 24(a), Article I of the State Constitution. Uniform
259 traffic citations reveal significant personal information about
260 drivers issued a citation. Pervasive use of the Internet and
261 related technologies abet those with malicious purposes in
262 exploiting the use of personal information contained in traffic
263 citations, such as a driver's date of birth, driver license
264 number, and address, creating ever-expanding threats to privacy

719341 - h1121-strike.docx

Published On: 2/7/2022 4:58:19 PM

Amendment No.

265 and security never envisioned in generations past. Driver
266 information, when held by the Department of Highway Safety and
267 Motor Vehicles in driver license and motor vehicle records, is
268 confidential pursuant to the federal Driver's Privacy Protection
269 Act of 1994, 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2),
270 Florida Statutes. These restrictions on disclosure of personal
271 information, however, have not applied to driver information
272 contained in uniform traffic citations. When driver information
273 contained in uniform traffic citations is made available to the
274 public, because it comprises much of the same personal
275 information contained in driver license and motor vehicle
276 records, the protections afforded by the federal Driver's
277 Privacy Protection Act of 1994 are significantly undermined,
278 eroding the privacy and safety of drivers. Therefore, the
279 Legislature finds that it is a public necessity to make exempt
280 from public records requirements driver information contained in
281 uniform traffic citations.

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

283
284
285 -----
286 **T I T L E A M E N D M E N T**

287 Remove everything before the enacting clause and insert:
288 An act relating to public records; amending s. 316.066, F.S.;
289 revising an exemption from public records requirements for

719341 - h1121-strike.docx

Published On: 2/7/2022 4:58:19 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1121 (2022)

Amendment No.

290 certain written reports of crashes; providing definitions;
291 revising the exemption applicable to specified crash reports for
292 a specified period of time; revising the agencies that hold
293 records to which the exemption applies; providing exemptions
294 from public records requirements for certain personal
295 information revealed in crash reports and certain computerized
296 crash report data; providing retroactive applicability; revising
297 entities to which records may be made available; requiring
298 certain entities to enter into a memorandum of understanding;
299 revising conditions precedent to accessing a crash report within
300 a specified period after a crash report is filed; requiring an
301 agency to provide redacted crash reports to certain news media;
302 providing construction; providing for future review and repeal;
303 providing penalties; amending s. 316.650, F.S.; defining the
304 term "driver information"; providing an exemption from public
305 records requirements for driver information contained in a
306 uniform traffic citation; providing applicability; authorizing
307 release of driver information under certain circumstances;
308 providing for future review and repeal; providing statements of
309 public necessity; providing an effective date.

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