

1 SENATE BILL NO. 376
23 AMENDMENT IN THE NATURE OF A SUBSTITUTE
45 (Proposed by the Senate Committee for Courts of Justice
6

7 on _____)

8 (Patron Prior to Substitute—Senator Surovell)
910 *A BILL to amend and reenact § 46.2-373 of the Code of Virginia and to amend the Code of Virginia by
11 adding a section numbered 8.01-417.02, relating to motor vehicle collisions; preservation and collection
12 of certain mobile telephone data; collision reports.*13 **Be it enacted by the General Assembly of Virginia:**14 **1. That § 46.2-373 of the Code of Virginia is amended and reenacted and that the Code of Virginia is
15 amended by adding a section numbered 8.01-417.02 as follows:**16 **§ 8.01-417.02. Motor vehicle collisions; requests for certain mobile telephone information to be
17 preserved.**18 *A. After an attorney certifies that he represents a party involved in a motor vehicle collision pursuant to
19 subsection C to the mobile telephone provider of another party alleged to have caused or contributed to the
20 cause of such collision, such attorney may, prior to the filing of a civil action for personal injury sustained as
21 a result of a collision, request in writing that the mobile telephone provider of such other party alleged to
22 have caused or contributed to the cause of the collision preserve for a period of 180 days from the date of
23 such request the following records or information relating to a specific phone number, to the extent that such
24 records or information are available when such request is received by the mobile telephone provider, from
25 the two hours immediately preceding and the two hours immediately following such collision: (i) subscriber
26 information; (ii) incoming and outgoing call logs; (iii) incoming and outgoing text message logs, not
27 including the content of such text messages; (iv) any Internet Protocol (IP) addresses assigned to the phone;
28 (v) the Media Access Control (MAC) address or other unique identifier of the mobile telephone; (vi) the
29 history of any server, cell site, or cellular base station accessed by the phone, including the date and time
30 accessed; and (vii) real-time location data. Such records may be preserved for 180 days in a manner
31 consistent with the policies of the mobile telephone provider and shall be retained in the event that such
32 records are subpoenaed or otherwise requested by a party in a pending action. Any request to preserve such
records or information for 180 days may be renewed by the requesting party's attorney, in writing, as needed.*33 *B. Upon request from the attorney representing a party involved in a motor vehicle collision, the
34 insurance carrier of the individual alleged to have caused or contributed to the cause of the collision shall
35 advise such attorney whether the individual was utilizing an application or device through the insurance*

33 carrier, whether directly or through a third party carrier, to monitor the individual's driving. If such
34 application or device was utilized, the insurance carrier shall, upon request from such party's attorney,
35 preserve or, if such application or device was provided through a third party provider with which the insurer
36 has a contract, agreement, or other relationship, cause to be preserved for 180 days from the date of such
37 request all data collected by such application or device and received by the application or device provider
38 for the two hours immediately preceding and the two hours immediately following such collision, to the extent
39 that records of such data are available when such request is received by such insurer. Any request to
40 preserve such records for 180 days may be renewed by the requesting party's attorney, in writing, as needed.

41 C. For the purposes of this section, an attorney representing a party involved in a motor vehicle collision
42 shall certify in accordance with the provisions of § 8.01-4.3 that such attorney has been retained to represent
43 the party in relation to a specific collision. Such certification shall include the (i) date, time, and place of the
44 collision; (ii) name of the party the attorney has been retained to represent; and (iii) name of the party
45 alleged to have caused or contributed to the cause of the collision and who is the subject of the preservation
46 request. The attorney shall notify the mobile telephone provider within 15 days of a termination of his
47 representation or decision not to file an action.

48 **§ 46.2-373. Report by law-enforcement official investigating collision.**

49 A. Every law-enforcement officer who in the course of duty investigates a ~~motor vehicle accident~~
50 collision resulting in injury to or death of any person or total property damage to an apparent extent of \$3,000
51 or more, either at the time of and at the scene of the ~~accident~~ collision or thereafter and elsewhere, by
52 interviewing participants or witnesses shall, within ~~twenty four~~ 24 hours after completing the investigation,
53 forward a written report of the ~~accident~~ collision to the Department. *The investigating law-enforcement*
54 *officer shall ask any driver involved in the collision about such driver's mobile telephone usage leading up to*
55 *and at the time of the collision and whether such driver uses an insurance or other telematics application or*
56 *device to monitor driving.* The report shall include the name or names of the insurance carrier or of the
57 insurance agent of the automobile liability policy on each vehicle involved in the ~~accident~~ collision and if the
58 driver of any vehicle involved in the collision uses an application or device to monitor driving. A
59 law-enforcement agency may utilize a contracted service provider to forward reports electronically to the
60 Department in compliance with this section and to manage or disseminate copies of such reports to persons
61 identified in, and in a manner consistent with, § 46.2-380, provided such contracted service provider complies
62 with the requirements applicable to an agency in Chapter 38 (§ 2.2-3800 et seq.) of Title 2.2.

63 B. Any collision report filed pursuant to subsection A of ~~this section~~ shall include information as to (i) the

64 speed of each vehicle involved in the ~~accident and collision~~, (ii) the type of vehicles involved in all ~~accidents~~
65 *collisions* between passenger vehicles and vehicles or combinations of vehicles used to transport property,
66 and (iii) whether any trucks involved in such ~~accidents~~ *collisions* were covered or uncovered.

67 C. The Department shall supply copies of ~~accident~~ *collision* reports received under this section to the
68 Commissioner of Highways who shall exercise the authority granted to him under §§ 46.2-870 through
69 46.2-878 to reduce speed limits where ~~accident~~ *collision* frequency or severity or other factors may indicate
70 the course of action to be warranted.

71 D. *Any collision report filed pursuant to subsection A shall include the mobile telephone number and*
72 *name of the mobile telephone provider of any driver of a vehicle involved in the collision, as well as the*
73 *International Mobile Equipment Identity (IMEI) number. The IMEI number shall be redacted from any report*
74 *provided to a member of the public unless the requesting party is one of the individuals involved in the*
75 *collision as a driver, passenger, vehicle owner, or injured person or an attorney representing a driver,*
76 *passenger, vehicle owner, or injured person. The report shall include whether such driver refused to provide*
77 *the mobile telephone number, mobile telephone provider, or IMEI number after requested to provide such*
78 *information by a law-enforcement officer. If, after such request by a law-enforcement officer, a driver refuses*
79 *to provide such information and such refusal later materially prevents another person involved in the*
80 *collision from showing liability for the collision, such refusal shall create a rebuttable presumption of*
81 *spoliation of evidence in accordance with § 8.01-379.2:1.*

82 2. That the Department of Motor Vehicles shall amend its collision report form in accordance with
83 § 46.2-373 of the Code of Virginia, as amended by this act.

84 3. That the provisions of this act may result in a net increase in periods of imprisonment or
85 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
86 appropriation is _____ for periods of imprisonment in state adult correctional facilities; therefore,
87 Chapter 725 of the Acts of Assembly of 2025 requires the Virginia Criminal Sentencing Commission to
88 assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the
89 estimated amount of the necessary appropriation is _____ for periods of commitment to the custody
90 of the Department of Juvenile Justice.