

SENATE BILL NO. 376
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee for Courts of Justice
on _____)
(Patron Prior to Substitute—Senator Surovell)

A BILL to amend and reenact § 46.2-373 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 8.01-417.02, relating to motor vehicle collisions; preservation and collection of certain mobile telephone data; collision reports.

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-373 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 8.01-417.02 as follows:

§ 8.01-417.02. Motor vehicle collisions; requests for certain mobile telephone information to be preserved.

A. After an attorney certifies that he represents a party involved in a motor vehicle collision pursuant to subsection C to the mobile telephone provider of another party alleged to have caused or contributed to the cause of such collision, such attorney may, prior to the filing of a civil action for personal injury sustained as a result of a collision, request in writing that the mobile telephone provider of such other party alleged to have caused or contributed to the cause of the collision preserve for a period of 180 days from the date of such request the following records or information relating to a specific phone number, to the extent that such records or information are available when such request is received by the mobile telephone provider, from the two hours immediately preceding and the two hours immediately following such collision: (i) subscriber information; (ii) incoming and outgoing call logs; (iii) incoming and outgoing text message logs, not including the content of such text messages; (iv) any Internet Protocol (IP) addresses assigned to the phone; (v) the Media Access Control (MAC) address or other unique identifier of the mobile telephone; (vi) the history of any server, cell site, or cellular base station accessed by the phone, including the date and time accessed; and (vii) real-time location data. Such records may be preserved for 180 days in a manner consistent with the policies of the mobile telephone provider and shall be retained in the event that such 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.

B. Upon request from the attorney representing a party involved in a motor vehicle collision, the insurance carrier of the individual alleged to have caused or contributed to the cause of the collision shall advise such attorney whether the individual was utilizing an application or device through the insurance

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

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

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

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

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.