

STORAGE NAME: h0323s1.in.doc
DATE: January 15, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
INSURANCE
ANALYSIS**

BILL #: CS/HB 323
RELATING TO: Vehicle Crash Reports
SPONSOR(S): Committee on State Administration and Representative(s) Baker

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) STATE ADMINISTRATION YEAS 4 NAYS 0
- (2) INSURANCE
- (3) COUNCIL FOR SMARTER GOVERNMENT
- (4)
- (5)

I. SUMMARY:

Law enforcement officers are required to file written reports of motor vehicle crashes. These reports are then considered a public record. However, a crash report revealing the identity, the home or employment telephone number, the home or employment address, or other personal information regarding parties involved in a crash, received or prepared by any agency that regularly receives or prepares information concerning the parties to motor vehicle crashes is confidential and exempt from public disclosure for 60 days after the date the report is filed. Certain individuals and entities can access these reports, including parties involved in the crash, publications qualifying as "newspapers," and radio and television stations licensed by the Federal Communications Commission. Federal or state agencies authorized to obtain crash reports under another provision of law may do so in furtherance of their statutory duties. Local agencies do not enjoy similar authority.

This committee substitute would expand access to these reports by including local agencies in the exception now extended to state and federal agencies. Local agencies therefore would be permitted to obtain these reports if permitted under another provision of law in furtherance of their statutory duties. It also would expressly include reference to "agent or employee" of a federal, state, or local "agency" as having the same access to these reports as the "agency" (presumably to the extent that the authority granted to the agency is not by implication authority enjoyed by employees acting in furtherance of that agency's duties).

Additionally, this committee substitute would require local, state, and federal agencies, agents and employees obtaining crash reports to maintain the confidential and exempt status of these reports and not disclose these reports.

This committee substitute does not appear to have a fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 316.066(3)(a), F.S., requires law enforcement officers to file written reports of motor vehicle crashes. Those reports are public record.

Section 316.066(3)(c), F.S., provides that crash reports revealing the identity, the home or employment telephone number, the home or employment address, or other personal information concerning parties involved in a crash, received or prepared by any agency that regularly receives or prepares information concerning the parties to motor vehicle crashes is confidential and exempt from public disclosure. This information is to remain confidential and exempt for 60 days after the date the report is filed.¹

Section 316.066(3)(c), F.S., also provides exceptions to the public records exemption. The crash reports may be made available to the

- Parties involved in the crash;
- Legal representatives of parties involved in the crash;
- Licensed insurance agents of parties involved in the crash;
- Insurers or insurers to which parties involved in the crash have applied for coverage;
- Persons under contract with insurers to provide claims or underwriting information;
- Prosecutorial authorities;
- Radio and television stations licensed by the Federal Communications Commission;
- Newspapers qualified to publish legal notices; and

¹ In its report on insurance fraud relating to personal injury protection coverage, the Fifteenth Statewide Grand Jury found that individuals called "runners" would pick up copies of crash reports filed with law enforcement agencies. The reports would then be used to solicit people involved in motor vehicle accidents. The Grand Jury found a strong correlation between illegal solicitations and the commission of a variety of frauds, including insurance fraud. "[T]he wholesale availability of these reports is a major contributing factor to this illegal activity and likely the single biggest factor contributing to the high level of illegal solicitation."¹ The Grand Jury also found access to crash reports provides the ability to contact large numbers of potential clients in violation of Florida's prohibition of crash report use for commercial solicitation purposes. According to the Grand Jury, "virtually anyone involved in a car accident in the state is fair game to the intrusive and harassing tactics of solicitors." Second Interim Report of the Fifteenth Statewide Grand Jury, No. 95,746 (Fla. 2000).

- Free newspapers of general circulation.²

Additionally, any state or federal agency authorized to have access to crash reports under a separate provision of law is granted access in the furtherance of that agency's duties. Local agencies do not enjoy similar express authority, which means they have to wait 60 days to obtain these reports. Local agencies use these reports for various purposes. For example, counties use the information contained in these reports to determine whether or not a certain area might need a stop light, stop sign, or change in speed limit due to a high number of traffic accidents at a particular location.

C. EFFECT OF PROPOSED CHANGES:

This committee substitute would expand access to motor vehicle crash reports by including local agencies in the exception now extended to state and federal agencies when authorized under another provision of law to obtain these reports in furtherance of their statutory duties. Local agencies therefore would be permitted to obtain these reports if permitted under another provision of law in furtherance of their statutory duties. It also would expressly include reference to "agent or employee" of a federal, state, or local "agency" as having the same access to these reports as the "agency" (presumably to the extent that the authority granted to the agency is not by implication authority enjoyed by employees acting in furtherance of that agency's duties).

Additionally, this committee substitute would require local, state, and federal agencies, agents and employees obtaining these crash reports to maintain the confidential and exempt status of these reports and not disclose these reports.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

² Such newspaper must publish a paper once a week or more. Additionally, such newspaper must be available and of interest to the public generally for the dissemination of news. The following newspapers are not considered as newspapers that qualify for the exception: newspapers intended primarily for members of a particular profession or occupational group; newspapers with the primary purpose of distributing advertising; and newspapers with the primary purpose of publishing names and other personally identifying information concerning parties to motor vehicle crashes.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This committee substitute does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This committee substitute does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This committee substitute does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On November 27, 2001, the Committee on State Administration heard HB 323 and adopted two amendments to the bill. The first amendment removed language from the bill that granted organ donation facilitation organizations access to crash reports. The second amendment added language to the bill requiring local, state, and federal agents, and employees who receive crash reports, in addition to the agency receiving these reports, to maintain the confidential and exempt status of these reports. The Committee on State Administration reported the bill favorably as a committee substitute.

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VII. SIGNATURES:

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