

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Criminal Justice Committee

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BILL: CS/SB 1118

SPONSOR: Transportation Committee and Senators Saunders and Lynn

SUBJECT: Motor Vehicle Crash Report

DATE: April 7, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Evans</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This committee substitute for SB 1118 (CS) allows victim services programs to obtain motor vehicle crash reports immediately rather than having to wait 60 days. The CS defines victim services programs as “Any community-based organization whose primary purpose is to act as an advocate for the victims and survivors of traffic crashes and for their families. The victims services offered by these programs may include grief and crisis counseling, assistance with preparing victims compensation claims excluding third-party legal action, or connecting persons with other service providers, and providing emergency financial assistance.”

This bill substantially amends section 316.066 and creates section 316.003(84), Florida Statutes.

## II. 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 records. However, s. 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 which 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.

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
- Free newspapers of general circulation.

Additionally, any local, state, or federal agency authorized to have access to crash reports under a separate provision of law is granted access in the furtherance of the agency's duties.

The primary policy reason for closing access to these crash reports for 60 days to persons or entities not specifically listed appears to be protection for crash victims and their families from illegal solicitation by attorneys. In its 2000 report on insurance fraud relating to personal injury protection coverage, the Fifteenth Statewide Grand Jury found the 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.

According to the Attorney General's Second Interim report of the Fifteenth Statewide Grand Jury, "probably the single biggest factor contributing to the high level of illegal solicitations is the ready access to public accident reports in bulk by runners. These reports provide runners, and the lawyers and medical professionals who use them, the ability to contact large numbers of potential clients at little cost and with almost no effort. As a result, virtually anyone involved in a car accident in Florida is fair game to the intrusive and harassing tactics of solicitors. Such conduct can be emotionally, physically, and ultimately, financially destructive."

The Grand Jury found the access to crash reports, which provide individuals with the ability to contact large numbers of potential clients, is a 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.<sup>1</sup>

In recent years, a number of victim services programs, such as Mothers Against Drunk Driving, have formed to offer services to the victims of traffic crashes, and to their families. These programs supplement the victims services offered by the Attorney General's Office, some State Attorney's offices and judicial circuits, and by several county and local law-enforcement agencies. These victim services programs can provide counseling or emotional support, assistance with contacting agencies for assistance or information, or even short-term financial assistance, such as paying for a hotel room or air fare for a crash victim's out-of-town family.

### **III. Effect of Proposed Changes:**

The CS amends s. 316.066, F.S., to include victim services programs with those entities currently able to obtain crash reports at any time, i.e., within the 60-day non-disclosure period. Victim

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<sup>1</sup> Second Interim Report of the Fifteenth Statewide Grand Jury, No. 95,746. (Fla. 2000).

services programs, such as Mothers Against Drunk Driving (MADD), would be allowed to obtain crash reports to assist victims.

The CS defines victims services programs as “any community-based organization whose primary purpose is to act as an advocate for the victims and survivors of traffic crashes and for their families. The victims services offered by these programs may include grief and crisis counseling, assistance with preparing victims compensation claims excluding third-party legal action, or connecting persons with other service providers, and providing emergency financial assistance.”

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

Article I, s. 24, Florida Constitution, expresses Florida’s public policy regarding access to government records:

Every person has the right to inspect or copy any public records made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created hereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

The Legislature may by general law exempt certain records and meetings from the requirements of article I, s. 24. The general law must include a specific statement of the public necessity justifying the exemption, and the exemption must not be broader than necessary to accomplish the stated purpose of the law.

In the Open Government Sunset Review Act of 1995, the Legislature included an express statement of intent stating exemptions to the public records and public meetings laws be created or maintained only if the exempted record or meeting is of a sensitive, personal nature concerning individuals; the exemption is necessary for the effective and efficient administration of a governmental program; or the exemption affects confidential information concerning an entity.

It should be noted the effects of this bill would relax current restrictions on public access to information rather than restrict such access.

##### **C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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