

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 649 CS Crash Reports
SPONSOR(S): Robaina and others
TIED BILLS: none **IDEN./SIM. BILLS:** SB 1118

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Committee</u>	<u>13 Y, 0 N, w/CS</u>	<u>Pugh</u>	<u>Miller</u>
2) <u>Criminal Justice Committee</u>	<u></u>	<u>Bond</u>	<u>Kramer</u>
3) <u>Governmental Operations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>State Infrastructure Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Law enforcement officers are required to file written reports of motor vehicle crashes. These reports are considered a public record, but there are some restrictions on immediate access to certain information contained within the reports. Typically, 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 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 prior to the 60-day waiting period; they include parties involved in the crash and their lawyers and insurance carriers; publications qualifying as "newspapers," and radio and television stations licensed by the Federal Communications Commission; and federal, state and local agencies authorized to obtain crash reports under another provision of law.

This bill provides that a victim services program will additionally have early access to crash reports. It also defines the term to mean 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, and whose services include counseling, assistance with filing victims compensation claims excluding third-party action, connecting persons with other service providers, and providing emergency financial assistance.

This bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current 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.

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 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.

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 that 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 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

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

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."

In recent years, a number of community-based groups, such as Mothers Against Drunk Driving, have formed to offer services to the victims of traffic crashes, and to their families. These groups 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 community-based groups 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.

The Office of Attorney General maintains a database of hundreds of victims services/victims advocacy groups, some of which have completed that agency's tuition-free victims services professional development program offered several times a year. But there is no requirement for community-based victims services programs to be listed in the database, or to receive the training.

Effect of Proposed Changes

HB 649 w/CS adds "victims services programs" to the groups that can receive immediate access to vehicle crash reports, without having to wait 60 days.

The also 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, connecting persons with other service providers, and providing emergency financial assistance.

C. SECTION DIRECTORY:

Section 1: Amends s. 316.003, F.S., to define "victims services program" for the purposes of chapter 316, F.S.

Section 2: Amends s. 316.066, F.S., to add victims services programs to the list of persons or entities that have immediate access to traffic crash reports.

Section 3: Provides this act shall take effect upon becoming a law.

II. 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. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its March 24, 2005, meeting, the House Transportation Committee adopted without objection an amendment to define "victims services program." It then voted 13-0 to report the bill as favorable with a committee substitute.