

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: CS/SB 876

INTRODUCER: Transportation Committee and Senator Galvano

SUBJECT: Motor Vehicle Crash Reports

DATE: March 31, 2014 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|------------------|
| 1. | Everette | Eichin | TR | Fav/CS |
| 2. | Carey | Martin | ATD | Favorable |
| 3. | | | AP | |
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Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 876 relates to motor vehicle crash reports, and requires a sworn statement from the requestor for *each* individual crash report which is requested within the 60-day confidential and exempt period.

The bill has no fiscal impact.

II. Present Situation:

Traffic Crash Reports

A Florida Traffic Crash Report Long Form must be completed and submitted to the Department of Highway Safety and Motor Vehicles (DHSMV) within ten days after law enforcement completes an investigation of a motor vehicle crash that:

- Resulted in death, personal injury or any indication of pain or discomfort of any passengers involved in the crash;
- Resulted in damage to a vehicle or other property;¹

¹ Section 316.061(1)(a), Florida Statutes.

- Resulted in a driving under the influence violation;²
- Rendered a vehicle inoperable to a degree that required a wrecker to remove it from the crash scene; or
- Involved a commercial motor vehicle.

If the circumstances of the crash, as described above, do not require completion of the long form crash report, the law enforcement officer is required to complete a short-form crash report or provide a driver exchange-of-information form. The driver exchange-of-information form is completed by all drivers and passengers involved in the crash and requires the identification of each vehicle involved in the incident.

The information included on a crash report (both long and short form) must include:

- Date, time, and location of crash;
- Description of vehicles involved;
- Names and addresses of parties involved, including all drivers and passengers, and the identification of vehicles;
- Names and addresses of witnesses;
- Name, badge number, and law enforcement agency of the investigating officer; and
- Respective parties insurance companies;

Both long and short form crash reports prepared by a law enforcement officer must be submitted to the DHSMV and may be maintained by the law enforcement officer's agency.

Section 316.066, (2)(a), F.S., provides that crash reports revealing identity, home or employment telephone number or home or employment address of, or other personal information concerning the parties involved in the crash and held by any agency regularly receiving or preparing information from or concerning parties to motor vehicle crashes are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, for a period of 60 days after the date the report is filed.

Crash reports held by an agency may be made immediately available to parties involved in the crash, their legal representatives, their licensed insurance agents, their insurers or insurers to which they have applied for coverage, persons under contract with such insurers to provide claims or underwriting information, prosecutorial authorities, law enforcement agencies, the Department of Transportation, county traffic operations, victim services programs, radio and television stations licensed by the Federal Communications Commission, newspapers qualified to publish legal notices under ss. 50.11 and 50.031, F.S.,^{3, 4} and free newspapers of general circulation, published once a week or more often, available and of interest to the public generally for the dissemination of news.

Any local, state, or federal agency that is authorized to have access to crash reports by any provision of law shall be granted such access in the furtherance of the agency's statutory duties.

² Section 316.193, Florida Statutes.

³ <http://www.flsenate.gov/Laws/Statutes/2013/50.011>

⁴ <http://www.flsenate.gov/Laws/Statutes/2013/50.031>

A person attempting to access a crash report within the 60 days after the date the report was filed must present a valid driver license or other photographic identification, proof of status, or identification that demonstrates his or her qualifications to access, and file a written sworn statement with the state or local agency in possession of the information stating that information from a crash report made confidential and exempt by this section will not be used for any commercial solicitation of accident victims, or knowingly disclosed to any third party during the time that information remains confidential and exempt. In lieu of requiring a written sworn statement, an agency may provide crash reports by electronic means to third-party vendors under contract with one or more insurers, but only when such a contract states that information from a crash report made confidential and exempt will not be used for commercial solicitation of accident victims by the vendors, or knowingly disclosed by the vendors to any third party for the purpose of such solicitation, during the period of time the information remains confidential and exempt, and only when a copy of such contract is furnished to the agency as proof of the vendor's claimed status.

The primary policy reason for closing access to 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.

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.⁵

III. Effect of Proposed Changes:

Section 1 amends s. 316.066, F.S., to require a person who accesses a crash report within the required 60-day confidential and exempt period to file a written sworn statement with the state or

⁵ Second Interim Report of the Fifteenth Statewide Grand Jury, No. 95,746. (Fla. 2000).

local agency in possession of the requested information for *each* individual crash report that is being requested.

Section 2 provides that the bill shall be effective July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 316.066 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation Committee on March 13, 2014:

The CS removes the requirement directing the department to design a notice to be delivered via first-class mail or in person to all parties involved in a motor vehicle crash, where a traffic crash report is filed.

- B. **Amendments:**

None.