

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 Committee on Transportation

BILL: SB 876

INTRODUCER: Senator Galvano

SUBJECT: Motor Vehicle Crash Reports

DATE: March 9, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Everette	Eichin	TR	Pre-meeting
2.			ATD	
3.			AP	

I. Summary:

SB 876 relates to motor vehicle crash reports which are maintained and held confidential and exempt for a 60 day period after the filing date. Under current law, such reports are available for inspection by certain licensed insurance agents, law enforcement agencies, other entities as well as news media for the dissemination of news.

The bill requires a sworn statement for *each* individual crash report requested within the 60-day confidential and exempt period.

The bill also requires the Department of Highway Safety and Motor Vehicles (department) to deliver a notice either in person or by first-class mail to each party involved in a traffic crash for which a report is prepared. The notice explicitly advises such individuals of the prohibition against attorneys, members of the medical community and other entities soliciting him or her upon receipt of the crash report.

II. Present Situation:

Traffic Crash Reports

A Florida traffic crash report is required to be completed by law enforcement when a motor vehicle crash occurs on Florida roadways, either long or short form.

A long form must be completed and submitted to the department within ten days after law enforcement completes the investigation that resulted in death, personal injury or any indication of pain or discomfort of any parties involved in the crash;

- Involved a violation of s. 316.061(1)¹ or s. 316.193²;

¹ <http://www.flsenate.gov/Laws/Statutes/2013/316.061>, Crashes involving damage to vehicle or property.

² <http://www.flsenate.gov/Laws/Statutes/2013/316.193>, Driving under the influence; penalties.

- Rendered a vehicle inoperable to a degree that required a wrecker to remove it from the crash scene;
- Involved a commercial motor vehicle;

The Long 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 investigating officer;
- Respective parties insurance companies;

In any crash for which a long form is not required by this section and which occurs on the public roadways of this state, the law enforcement officer shall complete a short-form crash report or provide a driver exchange-of-information form, to be completed by all drivers and passengers involved in the crash, which requires the identification of each vehicle that the drivers and passengers were in.

The 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 investigating officer;
- Respective parties insurance companies;

Both long and short form crash reports prepared by law enforcement must be submitted to the department 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 are 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.

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 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 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.⁵

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

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

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

III. Effect of Proposed Changes:

Section 1, amends s. 316.066, F.S., requiring that when a person accesses a crash report, within the required 60-day period after the filing of the report, presenting a valid driver license or other photographic identification, proof of status, or identification that demonstrates his or her qualifications to access that information, filing a written sworn statement with the state or local agency in possession of the information, such written sworn statement must be completed and sworn to by the requesting party for *each* individual crash report that is being requested.

The bill further requires the department to design a notice and deliver in person or by first-class mail to each party involved in a traffic crash where a traffic crash report is filed. The notice shall be 8 ½ inches by 11 inches and shall state in uppercase and boldface type, red in color, the following: "IT IS UNLAWFUL FOR AN ATTORNEY, PHYSICIAN, CHIROPRACTIC PHYSICIAN, MEDICAL FACILITY, OR OTHER PERSON OR ENTITY TO SOLICIT YOU TO SEEK MEDICAL TREATMENT UNDER YOUR PERSONAL INJURY PROECTION POLICY. IF YOU ARE UNLAWFULLY SOLICITED, YOU SHOULD CONTACT YOUR LOCAL POLICE DEPARTMENT OR SHERIFF'S OFFICE."

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:

The department provides a non-recurring programming cost of \$7,400 to implement provisions of this bill. In addition, \$1,250,792 annually will be needed to mail notices to individuals involved in crashes, based on FY 2012-13 numbers:

- Short form crash forms: \$435,658
 - Long form crash forms: \$949,697
 - Self-reporting crashes: \$ 24,300
 - Business owned vehicles: \$103,742
- \$1,513,397

The above information is based on crash accounts involving two individuals in each crash. The department would be mailing 3,026,794 notices annually. Due to the volume of estimated numbers, the department has based information on mailings and not hand deliveries to crash individuals.

The bill will require programming to place a statement on all departmental web-based sites used to provide a person's traffic crash personal information. ISA will also require approximately 110 hours to implement the bill's provisions:

- ISA 60 hours at \$ 40.00 = \$2,400.00
- Contractors 50 hours at \$100.00 = \$5,000.00

The department recommends an amendment to allow the required notice be provided electronically to parties involved in a crash, if e-mail information is available in the crash report to minimize fiscal impact on department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 316.066 of the Florida Statutes:

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
