

BILL ANALYSIS

Senate Research Center

H.B. 1634
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Transportation & Homeland Security
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

People involved in motor vehicle accidents are often solicited and deceived by manipulators seeking to provide services to the accident victim for financial gain. This solicitation, which may be unwanted on the part of the person involved in the accident, is allowed due to current law authorizing an individual to obtain motor vehicle accident reports that contain certain contact information for the person involved in the accident.

Current law allows any individual with two of the following three pieces of information—date of the accident, specific address where the accident occurred, or the name of any person involved in the accident—to obtain a motor vehicle accident report. This bill prohibits access to motor vehicle accident reports during the 30-day period immediately after the date of the accident as shown on the accident report. This bill provides exceptions for the people involved in the accident and other people with certain interests in the information, and provides that the report is to become available to a person who provides certain information regarding the accident after the 30-day period.

H.B. 1634 amends current law relating to the release of a motor vehicle accident report or certain information in a motor vehicle accident report, and provides penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 550.065, Transportation Code, as follows:

Sec. 550.065. **RELEASE OF CERTAIN INFORMATION RELATING TO ACCIDENTS.** (a) Provides that this section applies only to information that is held by an agency that receives information from or receives information that relates to a person involved in a motor vehicle accident, or prepares information relating to a person involved in a motor vehicle accident, rather than providing that this section applies only to information that is held by the Department of Public Safety (DPS) or another governmental entity and relates to a motor vehicle accident reported under this chapter or Section 601.004 (Accident Report).

(b) Provides that except as provided by this section, a motor vehicle accident report or information in a motor vehicle accident report that reveals personal information relating to a person involved in a motor vehicle accident, including the person's name, home or employment address, and home or employment telephone number, is confidential and privileged during the 30-day period immediately after the date of the accident as shown on the accident report.

(b-1) Provides that vehicle specific, nonpersonally identifiable information is exempted from exclusion and may be released immediately if the person requesting the information provides the agency with a written statement averring that the information and any information subsequently requested by the person from the agency will not be used in connection with a commercial solicitation of a

person involved in an accident or knowingly disclosed to a third person for the purpose of making a commercial solicitation of a person involved in an accident.

(c) Requires that a motor vehicle accident report or the information in a motor vehicle accident report held by the agency, notwithstanding Subsection (b), immediately be made available on request to:

(1) a person involved in the motor vehicle accident or a person who is the owner of or a currently recorded lienholder on a vehicle involved in the accident;

(2) a person designated in writing by a person described by Subdivision (1) as the person's representative, the licensed insurance agent of a person described by Subdivision (1), or an insurer that provides coverage for a person involved in the accident or another person under contract with the insurer to provide claim or underwriting information;

(3) an attorney representing the state in anticipation of, in the course of preparing for, or in the course of criminal litigation;

(4) the law enforcement agency that employs a peace officer who investigated the accident and filed the accident report or the information in the report with the agency that holds the information;

(5) the court, in response to a subpoena issued by the court in connection with a pending judicial proceeding that involves the motor vehicle accident;

(6) a radio or television station that holds a license issued by the Federal Communications Commission and requests the report or the information as part of an investigation of the accident;

(7) a newspaper that is qualified to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news and requests the report or the information as part of an investigation of the accident;

(8) an agency of this or another state, of a political subdivision of this or another state, or of the United States that is authorized by law to have access to the motor vehicle accident report or information in the accident report in connection with the agency's statutory duties; or

(9) a private investigator, as defined by Section 1702.002 (Definitions), Occupations Code, who holds a license issued under Chapter 1702 (Private Security) of that code and requests the report or the information as part of an investigation into the cause of or responsibility for a fire, libel, loss, accident, damage, or injury to a person or property, or for the purpose of securing evidence for use before a court, board, officer, or investigating committee.

(d) Provides that a publication is not considered to be a newspaper under Subsection (c) if the publication is intended primarily for members of a particular profession or occupational group, or has as its primary purpose the distribution of advertising, or the publication of the names and other personal identifying information of persons involved in motor vehicle accidents.

(e) Authorizes only a person authorized by Subsection (c), except as otherwise provided by this section, to access a motor vehicle accident report or information in a motor vehicle accident report during the 30-day period immediately after the date the report is filed and only if the person:

(1) presents a valid driver's license or other form of identification that bears the person's photograph and evidence to show the person's status or qualification to have access to the accident report or the information; and

(2) files a written statement, attested to before an officer authorized to administer oaths, in which the person recognizes that during the 30-day period immediately after the date the report was filed the report or the information is confidential and privileged, and certifies that during that period the report or information will not be used in connection with a commercial solicitation of a person involved in the accident, or knowingly disclosed to a third person for the purpose of making a commercial solicitation of a person involved in the accident.

(f) Authorizes an agency that holds a motor vehicle accident report that is confidential and privileged, as an alternative to requiring compliance with Subsection (e), to provide a copy of the accident report or the information in the report by electronic means or by other means to a third-party vendor under a contract with one or more insurers, but only if:

(1) the contract and the vendor expressly recognize that during the 30-day period immediately after the date the accident report was filed with the agency the report or information in the report is confidential and privileged under this section; and

(2) the vendor provides the agency with a copy of the contract or a letter of authorization from the insurer authorizing obtaining the report for insurance purposes only that certifies that during that 30-day period the report or information in the report will not be used in connection with a commercial solicitation of a person involved in the accident, or knowingly disclosed to a third person for the purpose of making a commercial solicitation of a person involved in the accident.

(g) Provides that nothing in this section is intended to prevent the dissemination or publication of news to the general public by a radio station, television station, or newspaper entitled to have access to a motor vehicle accident report or information in an accident report under this section.

(h) Provides that a person commits an offense if the person is an employee of a governmental agency described by Subsection (c) and possesses a motor vehicle accident report or information in an accident report that is confidential and privileged under this section, and intentionally discloses the accident report or the information to a person who is not entitled to have access to the report or the information.

(i) Provides that a person commits an offense if the person knows that the person is not entitled under this section to have access to a motor vehicle accident report or information in an accident report that is confidential and privileged under this section, and accesses or attempts to access the accident report or the information.

(j) Provides that a person commits an offense if the person knowingly uses a motor vehicle accident report or information in the accident report that is confidential and privileged under this section in a manner that violates the person's written statement filed under Subsection (e)(2).

(k) Provides that an offense under Subsection (h) is a Class C misdemeanor.

(l) Provides that an offense under Subsection (i) or (j) is a Class B misdemeanor if the person convicted under this section has not previously been convicted of an offense under this section, a Class A misdemeanor if the person convicted under this section has previously been convicted of one offense under this section, a

state jail felony if the person convicted under this section has previously been convicted of two offenses under this section, or a felony of the third degree if the person convicted under this section has been convicted of three or more offenses under this section.

(m) Requires the agency that holds a motor vehicle accident report or information in a motor vehicle accident report, after the expiration of the 30-day limitation provided by this section, and on written request and payment of any required fee, to release the accident report or the information to a person or entity described by Subsection (c), or a person who provides the agency with two or more of the following: the date of the accident, the specific address or the highway or street where the accident occurred, or the name of any person involved in the accident. Deletes existing text providing that except as provided by Subsection (c), the information is privileged and for the confidential use of DPS, and an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes. Deletes existing text requiring DPS or the governmental entity, on written request and payment of any required fee, to release the information to an entity described by Subsection (b), the law enforcement agency that employs the peace officer who investigated the accident and sent the information to DPS, the court in which a case involving a person involved in the accident is pending if the report is subpoenaed, or a person who provides DPS or the governmental entity with two or more of the following: the date of the accident, the specific address or the highway or street where the accident occurred, or the name of any person involved in the accident.

(n) Provides that the fee for a copy of a motor vehicle accident report or motor vehicle accident information is \$6 or the actual cost of the preparation of the copy, whichever is less. Authorizes the copy to be certified by the agency that holds the accident report or the information, rather than DPS or the governmental entity, for an additional fee of \$2. Authorizes the agency, rather than DPS or the governmental entity, to issue a certification that no report or information is on file for a fee of \$6.

SECTION 2. Effective date: September 1, 2009.