

House Bill 828

By: Representatives Mabra of the 63rd, Hightower of the 68th, Willard of the 51st, Kelley of the 16th, Stephenson of the 90th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to
2 insurance generally, so as to prohibit the solicitation, release, or sale of automobile accident
3 information; to provide for definitions; to provide for exceptions; to provide for penalties;
4 to amend Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when
5 public disclosure of records is not required, so as to change certain provisions relating to
6 written authorization to obtain motor vehicle accident reports; to provide for related matters;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to insurance
11 generally, is amended by repealing Code Section 33-24-53, relating to prohibition of
12 compensation for referrals or recommendations to attorneys and penalties, in its entirety and
13 by enacting a new Code Section 33-24-53 to read as follows:

14 "33-24-53.

15 (a) As used in this Code section, the term:

16 (1) 'Capper,' 'runner,' or 'steerer' means a person who receives a pecuniary benefit from
17 a practitioner or health care service provider, whether directly or indirectly, to solicit,
18 procure, or attempt to procure a client, patient, or customer at the direction or request of,
19 or in cooperation with, a practitioner or health care service provider whose purpose is to
20 obtain benefits under a contract of insurance or to assert a claim against an insured or an
21 insurer for providing services to the client, patient, or customer. Capper, runner, or
22 steerer shall not include a practitioner or health care service provider who procures
23 clients, patients, or customers through the use of public media or a health, mental health,
24 or substance abuse information service that provides information upon request and
25 without charge to consumers about providers of health care goods or services; provided,
26 however, that such service does not attempt to steer or lead a consumer to select or

27 consider selecting a particular health care provider or health care facility through any
28 financial inducement, commission, rebate, bonus, kickback, or in-kind reward, including
29 free transportation.

30 (2) 'Practitioner' means an attorney, health care professional, owner or partial owner of
31 a health care practice or facility, or any person employed or acting on behalf of any of
32 the individuals in this paragraph.

33 (3) 'Public media' means telephone directories, professional directories, newspapers and
34 other periodicals, radio and television, billboards, and mailed or electronically transmitted
35 written communications that do not involve in-person contact with a specific prospective
36 client, patient, or customer.

37 (b) Except as provided for in paragraph (5) of subsection (a) of Code Section 50-18-72,
38 it is unlawful for any person in an individual capacity or in a capacity as a law enforcement
39 officer, law enforcement records staff member, wrecker services staff member, emergency
40 staff member, physician, hospital employee, or attorney to solicit, release, or sell any
41 information relating to the parties of a motor vehicle collision for personal financial gain.
42 This subsection shall not apply to mass public media advertisement and solicitation.

43 (c) It is unlawful for:

44 (1) Any person in an individual capacity or in a capacity as a public or private employee
45 or any firm, corporation, partnership, or association to act as a capper, runner, or steerer
46 for any practitioner or health care service provider. This paragraph shall not prohibit an
47 attorney or health care provider from making a referral and receiving compensation as
48 is permitted under applicable professional rules of conduct; and

49 (2) Any practitioner or health care service provider to compensate or give anything of
50 value to a person acting as a capper, runner, or steerer. It is also unlawful for any
51 organization to recommend or secure a practitioner's or health care service provider's
52 employment by a client, patient, or customer if such practitioner or health care service
53 provider obtains or intends to obtain benefits under a contract of insurance or asserts a
54 claim against an insured or an insurer for providing services to the client, patient, or
55 customer. This paragraph shall not include a practitioner or health care service provider
56 who procures clients, patients, or customers through the use of public media.

57 (d) Any natural person convicted of a violation of this Code section shall, on the first
58 offense, be guilty of a misdemeanor and, upon conviction thereof, shall be punished by
59 imprisonment of not less than 30 days and a fine not to exceed \$1,000.00. Any natural
60 person convicted of a second or subsequent violation of this Code section shall be guilty
61 of a felony and, upon conviction thereof, shall be punished by imprisonment of not more
62 than ten years and by a fine of not more than \$100,000.00 per violation."

63

SECTION 2.

64 Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public
 65 disclosure of records is not required, is amended by revising paragraph (5) of subsection (a)
 66 as follows:

67 "(5) Individual Georgia Uniform Motor Vehicle Accident Reports, except upon the
 68 submission of a written statement of need by the requesting party to be provided to the
 69 custodian of records and to set forth the need for the report pursuant to this Code section;
 70 provided, however, that any person or entity whose name or identifying information is
 71 contained in a Georgia Uniform Motor Vehicle Accident Report shall be entitled, either
 72 personally or through a lawyer or other representative, to receive a copy of such report;
 73 and provided, further, that Georgia Uniform Motor Vehicle Accident Reports shall not
 74 be available in bulk for inspection or copying by any person absent a written statement
 75 showing the need for each such report pursuant to the requirements of this Code section.
 76 For the purposes of this subsection, the term 'need' means that the natural person or legal
 77 entity who is requesting in person or by representative to inspect or copy the Georgia
 78 Uniform Motor Vehicle Accident Report:

- 79 (A) Has a personal, professional, or business connection with a party to the accident;
- 80 (B) Owns or leases an interest in property allegedly or actually damaged in the
 81 accident;
- 82 (C) Was allegedly or actually injured by the accident;
- 83 (D) Was a witness to the accident;
- 84 (E) Is the actual or alleged insurer of a party to the accident or of property actually or
 85 allegedly damaged by the accident;
- 86 (F) Is a prosecutor or a publicly employed law enforcement officer;
- 87 (G) Is alleged to be liable to another party as a result of the accident;
- 88 (H) Is an attorney stating that he or she needs the requested reports as part of a criminal
 89 case, or an investigation of a potential claim involving contentions that a roadway,
 90 railroad crossing, or intersection is unsafe;
- 91 (I) Is gathering information as a representative of a news media organization; provided,
 92 however, that this subparagraph shall apply only to accident reports on accidents that
 93 occurred more than 60 days prior to the request and which shall have the name, street
 94 address, telephone number, and driver's license number redacted;
- 95 (J) Is conducting research in the public interest for such purposes as accident
 96 prevention, prevention of injuries or damages in accidents, determination of fault in an
 97 accident or accidents, or other similar purposes; provided, however, that this
 98 subparagraph shall apply only to accident reports on accidents that occurred more than

99 ~~30~~ 60 days prior to the request and which shall have the name, street address, telephone
100 number, and driver's license number redacted; or
101 (K) Is a governmental official, entity, or agency, or an authorized agent thereof,
102 requesting reports for the purpose of carrying out governmental functions or legitimate
103 governmental duties;"

104 **SECTION 3.**

105 All laws and parts of laws in conflict with this Act are repealed.