

The Senate Insurance and Labor Committee offered the following substitute to HB 828:

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:

23 (A) Any insurance company or agent or employee thereof who provides referrals or
24 recommendations to its insureds; or

25 (B) A practitioner or health care service provider who procures clients, patients, or
26 customers through the use of public media or by referrals or recommendations from
27 other practitioners or health care service providers.

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

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

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

41 (c) It is unlawful for:

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

47 (2) Any practitioner or health care service provider to compensate or give anything of
48 value to a person acting as a capper, runner, or steerer. It is also unlawful for any capper,
49 runner, or steerer to recommend or secure a practitioner's or health care service provider's
50 employment by a client, patient, or customer if such practitioner or health care service
51 provider obtains or intends to obtain benefits under a contract of insurance or asserts a
52 claim against an insured or an insurer for providing services to the client, patient, or
53 customer.

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

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SECTION 2.

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

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

- (A) Has a personal, professional, or business connection with a party to the accident;
- (B) Owns or leases an interest in property allegedly or actually damaged in the accident;
- (C) Was allegedly or actually injured by the accident;
- (D) Was a witness to the accident;
- (E) Is the actual or alleged insurer of a party to the accident or of property actually or allegedly damaged by the accident;
- (F) Is a prosecutor or a publicly employed law enforcement officer;
- (G) Is alleged to be liable to another party as a result of the accident;
- (H) Is an attorney stating that he or she needs the requested reports as part of a criminal case, or an investigation of a potential claim involving contentions that a roadway, railroad crossing, or intersection is unsafe;
- (I) Is gathering information as a representative of a news media organization; provided, however, that such representative submits a statement affirming that the use of such accident report is in compliance with Code Section 33-24-53. Any person who knowingly makes a false statement in requesting such accident report shall be guilty of a violation of Code Section 16-10-20;
- (J) Is conducting research in the public interest for such purposes as accident prevention, prevention of injuries or damages in accidents, determination of fault in an accident or accidents, or other similar purposes; provided, however, that this subparagraph shall apply only to accident reports on accidents that occurred more than

97 30 ~~60~~ days prior to the request and which shall have the name, street address, telephone
98 number, and driver's license number redacted; or
99 (K) Is a governmental official, entity, or agency, or an authorized agent thereof,
100 requesting reports for the purpose of carrying out governmental functions or legitimate
101 governmental duties;"

102 **SECTION 3.**
103 All laws and parts of laws in conflict with this Act are repealed.