



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4770 (Substitute S-1 as reported)
House Bill 4771 (Substitute S-3 as reported by the Committee of the Whole)
Sponsor: Representative Ellen Cogen Lipton (H.B. 4770)
Representative Joseph Graves (H.B. 4771)
House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

House Bill 4770 (S-1) would amend the Michigan Vehicle Code to limit access to a motor vehicle accident report for purposes of solicitation, for 30 days after the report was filed, and prescribe a misdemeanor penalty for a violation.

Specifically, for 30 days after the date a motor vehicle accident report was filed with a law enforcement agency, a person could gain access to the report only if the person or organization filed a statement indicating that from the time access was granted until 30 days after the report was filed, the person or organization acknowledged that the person or organization would be prohibited from doing either of the following:

- Using the report for any direct solicitation of an individual, vehicle owner, or property owner listed in the report.
- Disclosing any personal information contained in the report to a third party for commercial solicitation of an individual, vehicle owner, or property owner listed in the report.

A person who knowingly violated these provisions would be guilty of a misdemeanor punishable by a maximum fine of \$30,000 for a first violation, and imprisonment for up to one year or a maximum fine of \$60,000, or both, for a second or subsequent violation.

The bill would define "direct solicitation" as "direct solicitation to provide a service", as that term would be defined in House Bill 4771 (S-1).

"Motor vehicle accident" would mean an occurrence involving a motor vehicle that results in damage to property or injury to an individual.

"Personal information" would mean information that identifies an individual, including his or her name, address, driver license number, Social Security number, and telephone number.

"Law enforcement agency" would mean the Department of State Police, the county sheriff's office, or the police department of a local unit of government. "Local unit of government" would mean a county, city, village, or township, or a State university or college.

House Bill 4771 (S-3) would amend the Michigan Penal Code to prohibit a person from contacting a motor vehicle accident victim, or a member of his or her family, with a

solicitation to provide a service, for 30 days after the accident, and prescribe misdemeanor penalties for a violation.

Specifically, the bill would prohibit a person from intentionally contacting any individual whom the person knew had sustained a personal injury as a direct result of a motor vehicle accident, or any immediate family member of that individual, with a direct solicitation to provide a service, until after 30 days following the date of the accident.

The prohibition would not apply if the individual or his or her immediate family member requested the contact from that person or if the person were an employee or agent of an insurance company and contacted the individual or his or her family member on behalf of the insurance company to adjust a claim. The exemption for adjusting a claim would not apply to a referral of the individual or family member to an attorney.

The penalties for a violation would be the same as those proposed by House Bill 4770 (S-1). The court also could order an individual convicted of violating this prohibition to pay the costs of prosecution.

"Direct solicitation to provide a service" would mean a verbal or written solicitation or offer, including by electronic means, made to the injured individual or a family member seeking to provide a service for a fee or other remuneration that is based upon the knowledge or belief that the individual has sustained a personal injury as a direct result of a motor vehicle accident and that is directed toward that individual or family member.

"Personal injury" would mean any physical or mental injury, including wrongful death.

The bills are tie-barred to each other and would take effect on January 1, 2014.

Proposed MCL 257.503 (H.B. 4770)
Proposed MCL 750.410b (H.B. 4771)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate, likely minor, fiscal impact on local government. The bills would create new misdemeanor penalties for violating the proposed regulations restricting solicitation of those involved in motor vehicle accidents. There are no data to indicate how many individuals would be convicted of the proposed offenses; however, to the extent that additional convictions did result, local government would incur the cost of incarceration and/or community supervision. Any additional penal fine revenue would benefit public libraries.

The bills would have no fiscal impact on State or local law enforcement agencies.

Date Completed: 12-12-13

Fiscal Analyst: Bruce Baker
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.