

House Bill 828 (AS PASSED HOUSE AND SENATE)

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:

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

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

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

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

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

(c) It is unlawful for:

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

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

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

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

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

SECTION 3.

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