

- SUBJECT:** Restricting access to motor vehicle accident reports
- COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended
- VOTE:** 9 ayes — Smithee, Farrar, Clardy, Hernandez, Laubenberg, Raymond, Schofield, Sheets, S. Thompson
- 0 nays
- WITNESSES:** For — Ruben Herrera; Bart Huffman; (*Registered, but did not testify:* Paul Martin, National Association of Mutual Insurance Companies; Mike Hull, Texans for Lawsuit Reform; Carol Sims, Texas Civil Justice League; Bryan Blevins, Texas Trial Lawyers Association)
- Against — Tony Plohetski, Austin American-Statesman/Texas Press Association; Kelly Brown, The Bryan-College Station Eagle, Texas Press Association, Freedom of Information Foundation of Texas and Texas APME; (*Registered, but did not testify:* Kelley Shannon, Freedom of Information Foundation of Texas; Michael Schneider, Texas Association of Broadcasters; Donnis Baggett, Texas Press Association)
- On — Randy Kildow, Texas Association of Licensed Investigators
- BACKGROUND:** Under Transportation Code, sec. 550.065 governmental entities must release accident report information to any person that can provide 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.
- Under Penal Code, sec. 38.12, a person commits barratry if that person solicits employment by communicating in person, by written communication, or by telephone with a prospective client concerning professional employment for the purpose of providing professional

services without the prospective client's request.

DIGEST:

CSHB 2633 would prohibit governmental entities from releasing motor vehicle accident reports to persons who had no connection to the accident. Under the bill, the information could be released only to governmental agencies, courts, or persons directly concerned in the accident including:

- persons involved in the accident and their authorized representatives;
- drivers involved in the accident;
- employers, parents, or legal guardian of drivers involved in the accident;
- owners of vehicles or property damaged in the accident;
- persons with financial responsibility for the vehicle, including policyholders of liability insurance policies;
- insurance companies that issue motor vehicle liability insurance policies covering a vehicle involved in the accident; or
- any person who may sue because of death resulting from the accident.

The bill also would require governmental entities to create redacted accident reports that could be provided to any person upon request and payment of the required fee. These redacted accident reports could include only the location, date, and time of the accident as well as the make and model of any vehicle involved in the accident.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 2633 is necessary to protect privileged and confidential information, including personally identifiable information, from bad actors who seek to use this information for their own benefit.

Accident reports often contain confidential information, such as names and driver's license numbers, that could be used in identity theft. By

requiring the creation of redacted accident reports that would be available to the public, this bill would balance protection of confidential information with public access to information.

News organizations still would be able to access information on traffic accidents in a way that did not jeopardize the privacy of the individuals involved. The Department of Transportation regularly aggregates accident information and makes changes and repairs to improve the safety of roads across the state based on its own studies.

The bill also would ensure that people who were involved in accidents were not subjected to barratry or identity theft. Under current law, lawyers and non-lawyers can obtain information about accidents and contact those involved in the accidents directly and encourage them to file a lawsuit. This direct contact constitutes solicitation and barratry. Although the Penal Code and the Texas Disciplinary Rules of Professional Conduct provide punishments for barratry, the offense is rarely prosecuted and is often difficult to detect. Barratry remains a systemic issue across the state. This bill would eliminate a source of confidential information that actors could use to commit barratry.

**OPPONENTS
SAY:**

CSHB 2633 would unnecessarily restrict public access to important safety information.

News outlets often research these reports to study traffic and accident trends and provide the public with valuable safety information. It is important to humanize the situations by putting a face on the story. A recent study conducted by a newspaper found that a large number of fatal accidents were occurring on a highway in Texas. The newspapers pulled the accident reports for those cases and found that many of the accident victims were college students driving between college and their families' home. The state later expand the highway to make it safer, which may have been prompted by the story made possible through access to the type of information this bill would make more difficult to acquire.

Accident reports are often important for investigators and attorneys who

are investigating their client's accidents. Although investigators and attorneys may be able to access their clients' accident reports, they would not be able to access other reports that occurred on the same road on the same day. This would limit their ability to investigate road conditions on the date of the incident or find potential witnesses to the accidents.

Barratry is already punishable under both the Penal Code and the Texas Disciplinary Rules of Professional Conduct. Those punishments are sufficient to deter this type of behavior.