SENATE, No. 768

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Senator NICHOLAS P. SCUTARI
District 22 (Middlesex, Somerset and Union)
Senator GERALD CARDINALE
District 39 (Bergen and Passaic)

Co-Sponsored by:
Senators Oroho and Singleton

SYNOPSIS

Restricts access to motor vehicle accident reports under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning motor vehicle accidents and amending P.L.1998, c.21 and R.S.39:4-131.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 45 of P.L.1998, c.21 (C.17:33A-29) is amended to read as follows:

45. Every **[**state**]** State and local law enforcement agency, including the New Jersey State Police, shall make available to: (1) investigators and claim representatives employed by insurers; (2) vehicle owners, operators, or passengers listed in the accident report or an authorized representative of such identified person; (3) governmental employees authorized to investigate or prosecute insurance fraud; and (4) any person who claims to have suffered personal injury or property damage as a result of the motor vehicle accident, including pedestrians, or an authorized representative of such person, provided such person or authorized representative identifies with sufficient specificity the time and location of the accident described in the report, upon presentation of appropriate identification and any other information required by this section, information from any accident report, as set forth in this section, no later than 24 hours following the time of occurrence. The information may include, but need not be limited to, the names and addresses of the owners of the vehicles, insurance information recorded on the accident report, and the names and addresses of passengers in the vehicles at the time of the occurrence and, if applicable, the name of any pedestrian injured in an accident. Every accident report form shall contain the names and addresses of any person occupying a vehicle involved in an accident, and any pedestrian injured in an accident. Except as authorized by this section or by order of the court, no State or local law enforcement agency, including the New Jersey State Police, shall make available an accident report, nor any information contained in it, other than information concerning a criminal investigation which is otherwise required to be made available pursuant to subsection b. of section 3 of P.L.1963, c.73 (C.47:1A-3), to any other person until after 90 days have elapsed from the date of the accident.

For purposes of this section, an "authorized representative" means: (1) a licensed attorney retained by and acting under the express authorization of a person listed in the accident report or the express authorization of a person who claims to have suffered personal injury or property damage as a result of the motor vehicle accident, or an employee of such attorney, who provides written documentation demonstrating that the attorney has been retained to

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

represent such person; or (2) the next of kin of any person whose death or incapacitation results from the motor vehicle accident.

(cf: P.L.1998, c.21, s.45)

2. R.S.39:4-131 is amended to read as follows:

39:4-131. The commission shall prepare and supply to police departments and other suitable agencies, forms for accident reports calling for sufficiently detailed information with reference to a motor vehicle accident, including the cause, the conditions then existing, the persons and vehicles involved, the compliance with P.L.1984, c.179 (C.39:3-76.2e et seq.) by the operators and passengers of the vehicles involved in the accident, whether the operator of the vehicle was using a cellular telephone when the accident occurred, and such other information as the chief administrator may require.

Every law enforcement officer who investigates a vehicle accident of which report must be made as required in this Title, or who otherwise prepares a written report as a result of an accident or thereafter by interviewing the participants or witnesses, shall forward a written report of such accident to the commission, on forms furnished by it, within five days after his investigation of the accident.

Such written reports required to be forwarded by law enforcement officers and the information contained therein shall not be privileged or held confidential **[**. Every**]** , except that such reports and information shall not be made available to the public until after 90 days have elapsed from the date of the accident. At such time, every citizen of this State shall have the right, during regular business hours and under supervision, to inspect and copy such reports and shall also have the right in person to purchase copies of the reports at the same fee established by section 6 of P.L.2001, c.404 (C.47:1A-5). If copies of reports are requested other than in person, an additional fee of up to $5.00 may be added to cover the administrative costs of the report. Upon request, a police department shall send an accident report to a person through the mail or via fax **[**as defined in section 2 of P.L.1976, c.23 (C.19:59-2)**]**. The police department may require the person requesting the report to provide a completed request form and the appropriate fee prior to faxing or mailing the report. The police department shall provide the person requesting the report with the option of submitting the form and providing the appropriate fee either in person, through the mail, or via fax **[**as defined in section 2 of P.L.1976, c.23 (C.19:59-2)**]**.

The provisions of any other law or regulation to the contrary notwithstanding, reports obtained pursuant to this act shall not be subject to confidentiality requirements except as provided by section 28 of P.L.1960, c.52 (C.2A:84A-28).

When a motor vehicle accident results in the death or incapacitation of the driver or any passenger, the law enforcement officer responsible for notifying the next of kin that their relative is deceased or incapacitated, also shall inform the relative, in writing, how to obtain a copy of the accident report required by this section and the name, address, and telephone number of the person storing the motor vehicle pursuant to section 1 of P.L.1964, c.81 (C.39:10A-1).

Nothing in this section shall be construed to prohibit a law enforcement agency from making information from an accident report available in accordance with the provisions of section 45 of P.L.1998, c.21 (C.17:33A-29) or to require withholding information concerning a criminal investigation which is otherwise required to be made available pursuant to subsection b. of section 3 of P.L.1963, c.73 (C.47:1A-3).

(cf: P.L.2010, c.75, s.2)

3. This act shall take effect immediately.

STATEMENT

This bill establishes parameters for the distribution of certain accident report information.

Under current law, section 45 of P.L.1998, c.21 (C.17:33A-29), accident reports are made available by State and local law enforcement to investigators employed by insurers no later than 24 hours following the time of occurrence.

The bill would provide that these reports would not be available to the public until after 90 days have elapsed from the date of the accident, with certain exceptions. Under the bill, no later than 24 hours following the occurrence, the reports would be available to the following individuals: (1) investigators and claim representatives employed by insurers; (2) vehicle owners, operators, or passengers listed in the accident report or an authorized representative of such identified person; (3) governmental employees authorized to investigate or prosecute insurance fraud; and (4) any person who claims to have suffered personal injury or property damage as a result of the motor vehicle accident, including pedestrians, or an authorized representative of such person, provided such person or authorized representative identifies with sufficient specificity the time and location of the accident described in the report, upon presentation of appropriate identification and any other information required by section 45 of P.L.1998, c.21 (C.17:33A-29).

The bill defines an "authorized representative" as: (1) a licensed attorney retained by and acting under the express authorization of a person listed in the accident report or of a person who claims to

have suffered personal injury or property damage as a result of the motor vehicle accident, or an employee of such attorney, who provides written documentation demonstrating that the attorney has been retained to represent such person; or (2) the next of kin of any person whose death or incapacitation results from the motor vehicle accident.

The bill further provides that information contained in an accident report concerning a criminal investigation otherwise required to be made available within 24 hours or as soon as practical pursuant to subsection b. of section 3 of P.L.1963, c.73 (C.47:1A-3), provisions of the State's Open Public Records Act, shall not be subject to the 90 day period.

This bill also amends R.S.39:4-131 with regard to the form for an accident report which is prepared by the Motor Vehicle Commission and supplied to police departments. Under current law these accident reports are not considered privileged or confidential and every citizen has a right to inspect and copy these reports. The bill would delay the availability of such information to the public, except as enumerated above, until after 90 days have elapsed from the date of the accident.

Additionally in this section of law, the bill removes cross references to section 2 of P.L.1976, c.23 (C.19:59-2) concerning the definition of "fax," being one of the means by which people could request and police departments provide accident reports. The cross reference is obsolete because that referred to section was amended in 2008 to replace the definition of fax with a new definition for "electronic means" as a means of transmitting information. See P.L.2008, c.61, s.2.