ASSEMBLY BILL NO. 57–COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE NEVADA AUTO THEFT AND INSURANCE FRAUD TASK FORCE)

PREFILED DECEMBER 9, 2008

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits certain activities related to the solicitation of an accident victim on behalf of a legal or health care practitioner. (BDR 57-445)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to insurance; creating restrictions on access to certain law enforcement reports; prohibiting payments for the solicitation of an accident victim on behalf of a legal or health care practitioner to obtain the proceeds of an insurance claim; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill prohibits the release of reports concerning motor vehicle accidents and related information collected by a law enforcement agency to anyone other than the parties involved and their legal representatives and insurers or other law enforcement agencies or governmental entities for 60 days after the report is filed. **Section 3** also prohibits the use of reports concerning motor vehicle accidents to solicit business.

Section 5 of this bill includes within the definition of insurance fraud the practice of providing compensation or receiving any pecuniary benefit for soliciting an accident victim for a health care provider or attorney in order to obtain proceeds from an insurance claim.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 686A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***"Public media" means any telephone directory, professional directory, newspaper or other periodical, radio, television, billboard and mailed or electronically transmitted written communication that does not involve direct personal contact with a specific prospective client, patient or consumer.***

Sec. 3. ***1. Except as otherwise provided in subsection 2, all accident reports, investigative reports, statements by witnesses and photographs in the possession or under the control of any state or local law enforcement agency that concern a motor vehicle accident for which services or benefits under a policy of insurance issued pursuant to this title may be obtained are confidential for a period of 60 days after the date that the report or other item is filed with, or otherwise obtained by, the law enforcement agency.***

2. During the 60-day period in which the information in subsection 1 is confidential, it may only be released to:

(a) The parties involved in the accident;

(b) The authorized legal representative of a party involved in the accident;

(c) The insurer of a party involved in the accident; and

(d) Any other state or local law enforcement agency or other governmental entity.

3. Information described in subsection 1 shall not be requested or used for the purpose of soliciting or obtaining a business or commercial relationship which did not exist at the time the information was requested or used.

4. A person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 4. NRS 686A.281 is hereby amended to read as follows:

686A.281 As used in NRS 686A.281 to 686A.295, inclusive, ***and sections 2 and 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 686A.2815, 686A.282 and 686A.2825 ***, and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 5. NRS 686A.2815 is hereby amended to read as follows:

686A.2815 "Insurance fraud" means knowingly and willfully:

1. Presenting or causing to be presented any statement to an insurer, a reinsurer, a producer, a broker or any agent thereof, if the person who presents or causes the presentation of the statement knows that the statement conceals or omits facts, or contains false or misleading information concerning any fact material to an

application for the issuance of a policy of insurance pursuant to this title.

2. Presenting or causing to be presented any statement as a part of, or in support of, a claim for payment or other benefits under a policy of insurance issued pursuant to this title, if the person who presents or causes the presentation of the statement knows that the statement conceals or omits facts, or contains false or misleading information concerning any fact material to that claim.

3. Assisting, abetting, soliciting or conspiring with another person to present or cause to be presented any statement to an insurer, a reinsurer, a producer, a broker or any agent thereof, if the person who assists, abets, solicits or conspires knows that the statement conceals or omits facts, or contains false or misleading information concerning any fact material to an application for the issuance of a policy of insurance pursuant to this title or a claim for payment or other benefits under such a policy.

4. Acting or failing to act with the intent of defrauding or deceiving an insurer, a reinsurer, a producer, a broker or any agent thereof, to obtain a policy of insurance pursuant to this title or any proceeds or other benefits under such a policy.

5. As a practitioner, an insurer or any agent thereof, acting to assist, conspire with or urge another person to commit any act or omission specified in this section through deceit, misrepresentation or other fraudulent means.

6. Accepting any proceeds or other benefits under a policy of insurance issued pursuant to this title, if the person who accepts the proceeds or other benefits knows that the proceeds or other benefits are derived from any act or omission specified in this section.

7. Employing a person to procure clients, patients or other persons who obtain services or benefits under a policy of insurance issued pursuant to this title for the purpose of engaging in any act or omission specified in this section, except that such insurance fraud does not include contact or communication by an insurer or his agent or representative with a client, patient or other person if the contact or communication is made for a lawful purpose, including, without limitation, communication by an insurer with a holder of a policy of insurance issued by the insurer or with a claimant concerning the settlement of any claims against the policy.

8. Participating in, aiding, abetting, conspiring to commit, soliciting another person to commit, or permitting an employee or agent to commit any act or omission specified in this section.

9. Receiving any direct or indirect pecuniary benefit from a practitioner to procure clients, patients or other persons who obtain services or benefits under a policy of insurance issued pursuant to this title for the purpose of either obtaining benefits

under the policy of insurance for the practitioner or allowing the practitioner to assert a claim against an insured person or an insurer. This subsection does not apply to:

(a) Public media;

(b) A service which provides information upon request and without charge to consumers about practitioners and which does not attempt to steer or lead a consumer to select or consider selecting a particular practitioner through any financial inducement, commission, rebate, bonus, kickback or payment in-kind, including, without limitation, free transportation; or

(c) Any practitioner who makes a referral and receives compensation as permitted under the rules of professional conduct for the profession in which the practitioner engages.

10. Providing any compensation or any thing of value to a person for procuring clients, patients or other persons who obtain services or benefits under a policy of insurance issued pursuant to this title with the intent either to obtain benefits under the policy of insurance or to assert a claim against an insured person or an insurer. This subsection does not apply to a practitioner who procures clients, patients or other persons who obtain services or benefits under a policy of insurance issued pursuant to this title from any person or entity described in paragraph (a), (b) or (c) of subsection 9.

Sec. 6. This act becomes effective upon passage and approval.