

Bills to stop ‘attorney solicitation’ moving quickly

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Two bills that would prohibit companies from accessing accident reports and prevent “attorney solicitation” of accident victims for 30 days should move quickly through the House of Representatives.

House Bills [4770](#) and [4771](#) were discussed in the House Judiciary Committee June 13, and are expected to be voted to the full House at the next meeting June 20.

HB 4770 and HB 4771 were introduced by Rep. Ellen Cogen Lipton, D-Huntington Woods, and Rep. Joseph Graves, R-Argentine Township, respectively.

Another bill, HB [4772](#), was sponsored by state Rep. Kevin Cotter, R-Mount Pleasant, and establishes violation of the new standards as a felony.

“This bill [HB 4770] is really intended to deal with access to information,” said Lipton, who is an attorney. “You want people who need access to [accident] reports, media or attorney or family, but there does seem to be a business developing where people are downloading large amounts of data.

“They don’t even have to go to the police department; they just do data dumps and sell the information to third parties,” she added.

“We’ve really taken our time with this and working with Rep. Lipton on this was helpful and we have support on both sides of the aisle,” Graves said. “I think it will pass the House easily, and wouldn’t expect any opposition in the Senate either.”

The bills faced no opposition in the Judiciary Committee meeting June 13. They are expected to be passed out of the committee to the full House on June 20.

“In terms of being opposed to it, people who are downloading large amounts of information and either selling it to vendors or outright calling people, those are the people who might be opposed, but we don’t expect they will come forward,” Lipton said.

When she was submitting her bill, Lipton said she learned of Graves’ effort. They then worked together as part of a larger effort that also included Cotter.

“I was pleasantly surprised to see that [Chairman of the Judicial Committee] Cotter had taken a third bill involved with penalties associated with noncompliance, I think these have a very good chance.”

Graves recounted the story of the mother of an accident victim returning home after visiting her daughter in the hospital a couple days after the accident and finding her mailbox full of solicitations for medical and attorney services. There also were a couple of messages on the voicemail.

“We also have a constituent who is an attorney who brought it to our attention, and as we did more research we saw that it is an issue, and the more people got involved and more people agreed,” Graves said.

“There are these ‘advocacy organizations,’ they call and say, ‘We know a great attorney,’ and a lot of times these groups are attorneys and medical clinics working together and everything is within the guidelines of the law, but a majority of attorneys see this as unethical,” he explained. “These bills would give victims [time] to get through that initial shock and recover, at least some.”

Farmington Hills attorney Steven M. Gursten has been advocating for such legislation for some time, because he says it harms the profession and is fueling fraudulent behavior in some cases.

“If you know someone and they were in a car accident and they say they got letters, and they tell all their friends, that really cements the image as ambulance-chasing lawyers,” he said. “It does so much damage to our profession and our reputation, it’s so demeaning.”

Gursten said there is a growing cottage industry where medical providers and some few lawyers get together and form an entity that uses the police reports to solicit victims and steer them to treatment and representation.

Some of that results in fraud through overbilling and needless or excessive medical treatment, he said.

“The insurance industry is supportive of anything that tries to eliminate fraud and cost in the system,” said Tom Shields, spokesman for the Michigan Insurance Coalition and the Coalition for Auto Insurance Reform. “It appears that’s what this bill would help so and we certainly agree with the principle.”

Most states already have laws in place, Gursten said, saying he thinks it’s time to correct the problem.

“Michigan has really fallen behind, and we are paying the price and seeing the consequences, and I think it’s related with a lot of personal injury protection fraud,” he noted. “We’re supposed to be helping the public and we’re just shooting ourselves in the foot. I think when you talk to the people who are respected on both sides; everyone is in favor of this.”

In HB 4770, the 30-day exclusion of certain parties does not include those who would need legitimate access, including media, attorneys of record for the parties involved, insurance companies and families.

HB 4771 states: “A person shall not intentionally contact any individual that the person knows has sustained a personal injury or any family member of that individual, with a direct solicitation to provide a service until the expiration of 30 days after the event that caused the personal injury. This subsection does not apply if the individual has requested the contact from that person.”

The legislation provides that any person knowingly violating the section is guilty of a felony and subject to imprisonment of not more than two years and/or a fine of \$15,000.

Lipton said the issue has been on her mind for some time, and as a third-termmer she is term-limited and wants to try to accomplish as much as she can while she's still in office.

"As a third-termmer, you think if there's something you have an interest in and want to see done," she explained. "[A]nd that was one of the things I had been following since my first