

---

SENATE BILL 6522

---

State of Washington

63rd Legislature

2014 Regular Session

By Senators Holmquist Newbry and Conway

Read first time 01/31/14. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to restricting the use of personal information  
2 gathered during the claims resolution structured settlement agreement  
3 process; amending RCW 51.04.063; and reenacting and amending RCW  
4 42.56.230.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 42.56.230 and 2013 c 336 s 3 and 2013 c 220 s 1 are  
7 each reenacted and amended to read as follows:

8 The following personal information is exempt from public inspection  
9 and copying under this chapter:

10 (1) Personal information in any files maintained for students in  
11 public schools, patients or clients of public institutions or public  
12 health agencies, or welfare recipients;

13 (2)(a) Personal information:

14 (i) For a child enrolled in licensed child care in any files  
15 maintained by the department of early learning; or

16 (ii) For a child enrolled in a public or nonprofit program serving  
17 or pertaining to children, adolescents, or students, including but not  
18 limited to early learning or child care services, parks and recreation  
19 programs, youth development programs, and after-school programs.

1 (b) Emergency contact information under this subsection (2) may be  
2 provided to appropriate authorities and medical personnel for the  
3 purpose of treating the individual during an emergency situation;

4 (3) Personal information in files maintained for employees,  
5 appointees, or elected officials of any public agency to the extent  
6 that disclosure would violate their right to privacy;

7 (4) Information required of any taxpayer in connection with the  
8 assessment or collection of any tax if the disclosure of the  
9 information to other persons would: (a) Be prohibited to such persons  
10 by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance  
11 authorized under RCW 35.102.145; or (b) violate the taxpayer's right to  
12 privacy or result in unfair competitive disadvantage to the taxpayer;

13 (5) Credit card numbers, debit card numbers, electronic check  
14 numbers, card expiration dates, or bank or other financial account  
15 numbers, except when disclosure is expressly required by or governed by  
16 other law;

17 (6) Personal and financial information related to a small loan or  
18 any system of authorizing a small loan in RCW 31.45.093; (~~and~~)

19 (7)(a) Any record used to prove identity, age, residential address,  
20 social security number, or other personal information required to apply  
21 for a driver's license or identicard.

22 (b) Information provided under RCW 46.20.111 that indicates that an  
23 applicant declined to register with the selective service system.

24 (c) Any record pertaining to a vehicle license plate, driver's  
25 license, or identicard issued under RCW 46.08.066 that, alone or in  
26 combination with any other records, may reveal the identity of an  
27 individual, or reveal that an individual is or was, performing an  
28 undercover or covert law enforcement, confidential public health work,  
29 public assistance fraud, or child support investigative activity. This  
30 exemption does not prevent the release of the total number of vehicle  
31 license plates, drivers' licenses, or identicards that, under RCW  
32 46.08.066, an agency or department has applied for, been issued,  
33 denied, returned, destroyed, lost, and reported for misuse.

34 (d) Any record pertaining to a vessel registration issued under RCW  
35 88.02.330 that, alone or in combination with any other records, may  
36 reveal the identity of an individual, or reveal that an individual is  
37 or was, performing an undercover or covert law enforcement activity.  
38 This exemption does not prevent the release of the total number of

1 vessel registrations that, under RCW 88.02.330, an agency or department  
2 has applied for, been issued, denied, returned, destroyed, lost, and  
3 reported for misuse((-

4 (e)); and

5 (8) All information related to individual claims resolution  
6 structured settlement agreements submitted to the board of industrial  
7 insurance appeals under RCW 51.04.063, other than final orders from the  
8 board of industrial insurance appeals.

9 Upon request by the legislature, the department of licensing shall  
10 provide a report to the legislature containing all of the information  
11 in subsection (7)(c) and (d) of this ((subsection)) section that is  
12 subject to public disclosure.

13 **Sec. 2.** RCW 51.04.063 and 2013 c 23 s 104 are each amended to read  
14 as follows:

15 (1) Notwithstanding RCW 51.04.060 or any other provision of this  
16 title, beginning on January 1, 2012, an injured worker who is at least  
17 fifty-five years of age on or after January 1, 2012, fifty-three years  
18 of age on or after January 1, 2015, or fifty years of age on or after  
19 January 1, 2016, may choose from the following: (a) To continue to  
20 receive all benefits for which they are eligible under this title, (b)  
21 to participate in vocational training if eligible, or (c) to initiate  
22 and agree to a resolution of their claim with a structured settlement.

23 (2)(a) As provided in this section, the parties to an allowed claim  
24 may initiate and agree to resolve a claim with a structured settlement  
25 for all benefits other than medical. Parties as defined in (b) of this  
26 subsection may only initiate claim resolution structured settlements if  
27 at least one hundred eighty days have passed since the claim was  
28 received by the department or self-insurer and the order allowing the  
29 claim is final and binding. All requirements of this title regarding  
30 entitlement to and payment of benefits will apply during this period.  
31 All claim resolution structured settlement agreements must be approved  
32 by the board of industrial insurance appeals.

33 (b) For purposes of this section, "parties" means:

34 (i) For a state fund claim, the worker, the employer, and the  
35 department. The employer will not be a party if the costs of the claim  
36 or claims are no longer included in the calculation of the employer's  
37 experience factor used to determine premiums, if they cannot be

1 located, are no longer in business, or they fail to respond or decline  
2 to participate after timely notice of the claim resolution settlement  
3 process provided by the board and the department.

4 (ii) For a self-insured claim, the worker and the employer.

5 (c) The claim resolution structured settlement agreements shall:

6 (i) Bind the parties with regard to all aspects of a claim except  
7 medical benefits unless revoked by one of the parties as provided in  
8 subsection (6) of this section;

9 (ii) Provide a periodic payment schedule to the worker equal to at  
10 least twenty-five percent but not more than one hundred fifty percent  
11 of the average monthly wage in the state pursuant to RCW 51.08.018,  
12 except for the initial payment which may be up to six times the average  
13 monthly wage in the state pursuant to RCW 51.08.018;

14 (iii) Not set aside or reverse an allowance order;

15 (iv) Not subject any employer who is not a signatory to the  
16 agreement to any responsibility or burden under any claim; and

17 (v) Not subject any funds covered under this title to any  
18 responsibility or burden without prior approval from the director or  
19 designee.

20 (d) For state fund claims, the department shall negotiate the claim  
21 resolution structured settlement agreement with the worker or their  
22 representative and with the employer or employers and their  
23 representative or representatives.

24 (e) For self-insured claims, the self-insured employer shall  
25 negotiate the agreement with the worker or his or her representative.  
26 Workers of self-insured employers who are unrepresented may request  
27 that the office of the ombuds for self-insured injured workers provide  
28 assistance or be present during negotiations.

29 (f) Terms of the agreement may include the parties' agreement that  
30 the claim shall remain open for future necessary medical or surgical  
31 treatment related to the injury where there is a reasonable expectation  
32 such treatment is necessary. The parties may also agree that specific  
33 future treatment shall be provided without the application required in  
34 RCW 51.32.160.

35 (g) Any claim resolution structured settlement agreement entered  
36 into under this section must be in writing and signed by the parties or  
37 their representatives and must clearly state that the parties  
38 understand and agree to the terms of the agreement.

1 (h) If a worker is not represented by an attorney at the time of  
2 signing a claim resolution structured settlement agreement, the parties  
3 must forward a copy of the signed agreement to the board with a request  
4 for a conference with an industrial appeals judge. The industrial  
5 appeals judge must schedule a conference with all parties within  
6 fourteen days for the purpose of (i) reviewing the terms of the  
7 proposed settlement agreement by the parties; and (ii) ensuring the  
8 worker has an understanding of the benefits generally available under  
9 this title and that a claim resolution structured settlement agreement  
10 may alter the benefits payable on the claim or claims. The judge may  
11 schedule the initial conference for a later date with the consent of  
12 the parties.

13 (i) Before approving the agreement, the industrial appeals judge  
14 shall ensure the worker has an adequate understanding of the agreement  
15 and its consequences to the worker.

16 (j) The industrial appeals judge may approve a claim resolution  
17 structured settlement agreement only if the judge finds that the  
18 agreement is in the best interest of the worker. When determining  
19 whether the agreement is in the best interest of the worker, the  
20 industrial appeals judge shall consider the following factors, taken as  
21 a whole, with no individual factor being determinative:

22 (i) The nature and extent of the injuries and disabilities of the  
23 worker;

24 (ii) The age and life expectancy of the injured worker;

25 (iii) Other benefits the injured worker is receiving or is entitled  
26 to receive and the effect a claim resolution structured settlement  
27 agreement might have on those benefits; and

28 (iv) The marital or domestic partnership status of the injured  
29 worker.

30 (k) Within seven days after the conference, the industrial appeals  
31 judge shall issue an order allowing or rejecting the claim resolution  
32 structured settlement agreement. There is no appeal from the  
33 industrial appeals judge's decision.

34 (l) If the industrial appeals judge issues an order allowing the  
35 claim resolution structured settlement agreement, the order must be  
36 submitted to the board.

37 (3) Upon receiving the agreement, the board shall approve it within  
38 thirty working days of receipt unless it finds that:

- 1 (a) The parties have not entered into the agreement knowingly and  
2 willingly;
- 3 (b) The agreement does not meet the requirements of a claim  
4 resolution structured settlement agreement;
- 5 (c) The agreement is the result of a material misrepresentation of  
6 law or fact;
- 7 (d) The agreement is the result of harassment or coercion; or  
8 (e) The agreement is unreasonable as a matter of law.
- 9 (4) If a worker is represented by an attorney at the time of  
10 signing a claim resolution structured settlement agreement, the parties  
11 shall submit the agreement directly to the board without the conference  
12 described in this section.
- 13 (5) If the board approves the agreement, it shall provide notice to  
14 all parties. The department shall place the agreement in the  
15 applicable claim file or files.
- 16 (6) A party may revoke consent to the claim resolution structured  
17 settlement agreement by providing written notice to the other parties  
18 and the board within thirty days after the date the agreement is  
19 approved by the board.
- 20 (7) To the extent the worker is entitled to any benefits while a  
21 claim resolution structured settlement agreement is being negotiated or  
22 during the revocation period of an agreement, the benefits must be paid  
23 pursuant to the requirements of this title until the agreement becomes  
24 final.
- 25 (8) A claim resolution structured settlement agreement that meets  
26 the conditions in this section and that has become final and binding as  
27 provided in this section is binding on all parties to the agreement as  
28 to its terms and the injuries and occupational diseases to which the  
29 agreement applies. A claim resolution structured settlement agreement  
30 that has become final and binding is not subject to appeal.
- 31 (9) All payments made to a worker pursuant to a final claim  
32 resolution structured settlement agreement must be reported to the  
33 department as claims costs pursuant to this title. If a self-insured  
34 employer contracts with a third-party administrator for claim services  
35 and the payment of benefits under this title, the third-party  
36 administrator shall also disburse the structured settlement payments  
37 pursuant to the agreement.

1 (10) Claims closed pursuant to a claim resolution structured  
2 settlement agreement can be reopened pursuant to RCW 51.32.160 for  
3 medical treatment only. Further temporary total, temporary partial,  
4 permanent partial, or permanent total benefits are not payable under  
5 the same claim or claims for which a claim resolution structured  
6 settlement agreement has been approved by the board and has become  
7 final.

8 (11) Parties aggrieved by the failure of any other party to comply  
9 with the terms of a claim resolution structured settlement agreement  
10 have one year from the date of failure to comply to petition to the  
11 board. If the board determines that a party has failed to comply with  
12 an agreement, it will order compliance and will impose a penalty  
13 payable to the aggrieved party of up to twenty-five percent of the  
14 monetary amount unpaid at the time the petition for noncompliance was  
15 filed. The board will also decide on any disputes as to attorneys'  
16 fees for services related to claim resolution structured settlement  
17 agreements.

18 (12) Parties and their representatives may not use settlement  
19 offers or the claim resolution structured settlement agreement process  
20 to harass or coerce any party. If the department determines that an  
21 employer has engaged in a pattern of harassment or coercion, the  
22 employer may be subject to penalty or corrective action, and may be  
23 removed from the retrospective rating program or be decertified from  
24 self-insurance under RCW 51.14.030.

25 (13) All information related to individual claims resolution  
26 structured settlement agreements submitted to the board of industrial  
27 insurance appeals, other than final orders from the board of industrial  
28 insurance appeals, is private and exempt from disclosure under chapter  
29 42.56 RCW.

30 (14) Information gathered during the claims resolution structured  
31 settlement agreement process, including but not limited to forms filled  
32 out by the parties and testimony during a claims resolution structured  
33 settlement conference before the board of industrial insurance appeals,  
34 is a statement made in the course of compromise negotiations and is  
35 inadmissible in any future litigation.

--- END ---