

SENATE BILL REPORT

SHB 1909

As Passed Senate, April 3, 2019

Title: An act relating to protecting the confidentiality of industrial insurance claim records.

Brief Description: Concerning the confidentiality of industrial insurance claim records.

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Graham, Lovick, Griffey, Davis, MacEwen and Corry).

Brief History: Passed House: 3/06/19, 97-0.

Committee Activity: Labor & Commerce: 3/26/19 [DP].

Floor Activity:

Passed Senate: 4/03/19, 48-0.

Brief Summary of First Substitute Bill

- Allows employers or duly authorized representatives to review industrial insurance claim files.
- Requires the Department of Labor and Industries to notify employers and workers upon the allowance of a claim of their rights and responsibilities under this act.
- Subjects an employer to a civil penalty of \$1,000 for each occurrence where the employer or employer's authorized representative reveals information in an injured worker's claim file regarding a mental health condition or treatment to any person other than an authorized representative.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Braun, Saldaña, Walsh and Wellman.

Staff: Susan Jones (786-7404)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: Workers injured in the course of employment are entitled to medical care under the industrial insurance program administered by the Department of Labor and Industries (L&I). Physicians or nurse practitioners examining or attending injured workers must comply with L&I's rules, and must make reports, as requested by L&I or a self-insurer, upon the condition or treatment of any worker, or upon any other matters concerning those workers in their care.

Generally, all medical information in the possession or control of any person and relevant to the particular injury in L&I's opinion pertaining to any worker whose injury or occupational disease is the basis of an industrial insurance claim must be made available at any stage of the proceedings to the employer, the claimant's representative, and L&I upon request. No person will incur any legal liability by reason of releasing the information. Workers sign a release authorizing L&I to receive information from the claimant's health care providers regarding the claimant's condition.

Information in claim files and records of injured workers are generally confidential. Employers, or their duly authorized representatives, may review files of their own injured workers in connection with any pending claims.

All workers and employers contribute to the Supplemental Pension Fund, which pays for cost-of-living adjustments for injured workers.

Summary of First Substitute Bill: Employers, or their duly authorized representatives, may review claim files. L&I must ensure employers and workers are notified upon the allowance of a claim of their rights and responsibilities under this act.

If the employer or the employer's duly authorized representative reveals information in a claim file regarding a mental health condition or treatment to any person other than a duly authorized representative, the employer is subject to a civil penalty of \$1,000 for each occurrence. L&I must investigate a complaint and issue a notice of assessment if it determines that the employer violated the prohibition. The determination may be appealed. Once the order is final, the penalty amount collected is deposited into the Supplemental Pension Fund.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is so important. In the jobs that firefighters do every day and the things they see are cumulative. We recognized that this is a presumptive disease. The problem is the privacy issue. These injuries are much different from physical injuries. There will be a work group in the interim. We need to reward them when they come forward and not punish them for seeking help.

The bill ensures that mental health records remain confidential when firefighters seek workers' compensation coverage for PTSD. The passage of 2018 SB 6214, creating the PTSD presumption to resolve antiquated L&I standards, was an important improvement to the wellness and readiness of this state's safety providers. The unintended consequence of the bill needs to be remedied in 2019. Ninety percent of first responders are returned to full professional and personal life if they get treatment. This bill is about ensuring that they get that treatment when that condition is identified. When that occurs, sometimes the person's private and personal experiences are divulged and shared. It is important that this remains confidential and protected with a penalty for disclosure.

Persons Testifying: PRO: Representative Jenny Graham, Prime Sponsor; Jeff DeVere, Washington Council of Police and Sheriffs (WACOPS); Nicholas Gullickson, Washington State Council of Firefighters.

Persons Signed In To Testify But Not Testifying: No one.