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**Labor & Workplace Standards  
Committee**

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**HB 1763**

**Brief Description:** Concerning injured workers' rights during independent medical examinations.

**Sponsors:** Representatives Bronoske, Sells, Berry, Valdez, Goodman, Peterson, Simmons, Pollet, Ormsby, Harris-Talley and Kloba.

**Brief Summary of Bill**

- Allows an injured worker to make an audio and video recording of an independent medical examination (IME), and to have one person of the worker's choosing present during the examination.

**Hearing Date:** 1/14/22

**Staff:** Trudes Tango (786-7384).

**Background:**

In the workers' compensation system, a State Fund or self-insured employer's claim manager may request an independent medical examination (IME) of the injured worker in order to: (1) determine whether to allow or re-open a claim; (2) resolve a new medical issue, an appeal, or case progress; or (3) evaluate a worker's permanent disability or work restriction.

The IMEs are performed by medical examiners approved by the Department of Labor and Industries (Department). Generally, private IME firms facilitate scheduling of and payment to IME providers. The provider must submit written reports of the examination to the worker, the worker's attending physician, and the person ordering the IME. Generally, information contained in claim files and records of injured workers are confidential and are not subject to

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public inspection. Exceptions exist for the injured worker's representative, the employer, and attending providers involved in the claim.

Workers are prohibited, by Department rule, from recording the IME. The Department's rules do allow workers to bring an "adult friend or family member to the IME to provide comfort and reassurance" in examinations, except for psychiatric exams. The person accompanying the injured worker must not be compensated for attending and may not be the worker's health provider involved in the worker's care or the worker's legal representative or other personnel employed by the worker's legal representative. The Department may determine other conditions under which a worker can have another person present during the IME.

A worker may send written complaints about an IME provider's conduct during the IME to the Department or self-insured employer.

Legislation enacted in 2020 made changes to the IME statutes and required the Department to convene an IME work group to discuss ways to improve the IME process. The IME work group issued a report to the Legislature in December 2020. One of the topics the work group discussed was audio or videoing recording of IMEs. The work group did not vote on a strategy specific to recording IMEs and the Department did not recommend recording IMEs.

**Summary of Bill:**

A worker has a right to record either the audio or video, or both of all IMEs. The worker must pay the costs of recording. If requested, the worker must provide a copy of the recording to the Department or self-insured employer within 14 days of the request, but not prior to the issuance of the written report of the IME.

The worker must take reasonable steps to ensure the recording equipment does not interfere with the IME. Any material alteration to the recording that result in the receipt of benefits may be subject to repayment of those benefits. Recordings are treated as confidential as provided under the existing confidentiality statute.

The worker has a right to have one person, at least 18 years old and of the worker's choosing, present to observe the IME. The observer may not be the worker's legal representative and must be unobtrusive and not interfere with the IME.

**Appropriation:** None.

**Fiscal Note:** Requested on January 7, 2022.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.