

SENATE BILL REPORT

SB 5835

As Reported by Senate Committee On:
Labor, Commerce & Tribal Affairs, February 2, 2022

Title: An act relating to workers' compensation.

Brief Description: Concerning workers' compensation. [**Revised for 1st Substitute:**
Concerning a work group to study the disparity in worker's compensation benefits based on marital status.]

Sponsors: Senators Saldaña, Keiser, Nguyen, Nobles, Stanford and Wilson, C..

Brief History:

Committee Activity: Labor, Commerce & Tribal Affairs: 1/17/22, 2/02/22 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Adds a study by the Department of Labor and Industries (L&I) related to the disparity in worker's compensation benefits based on marital status, including the impact to the workers' compensation fund, premium rates, and self-insurers.
- Requires a report by L&I to the Governor and the appropriate committees of the Legislature by December 1, 2022.

SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

Majority Report: That Substitute Senate Bill No. 5835 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair, Labor; Stanford, Vice Chair, Commerce & Tribal Affairs; King, Ranking Member; Rivers, Robinson and Saldaña.

Minority Report: That it be referred without recommendation.

Signed by Senator Braun.

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

Staff: Susan Jones (786-7404)

Background: When the Department of Labor and Industries (L&I) determines there is a permanent or temporary total disability from a workers' compensation injury, a worker receives monthly payments during the period of the disability, as follows:

No. of the Worker's Children	% of the Worker's Wages if the Worker is Married	% of the Worker's Wages if the Worker is Unmarried
0	65%	60%
1	67%	62%
2	69%	64%
3	71%	66%
4	73%	68%
5 or more	75%	70%

The term "child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, child born after the injury where conception occurred prior to the injury, and dependent child in the legal custody and control of the worker, all while under the age of 18 years, or under the age of 23 years while permanently enrolled at a full time course in an accredited school, and over the age of 18 years if the child is a dependent as a result of a disability.

A married worker receives an additional \$10 per month when the worker is receiving the minimum monthly payments for a permanent or temporary total disability.

Summary of Bill (First Substitute): L&I must study:

- the impacts to Washington's workers' compensation funds, the workers' compensation premium rates, and self-insurers if the law is amended to provide the same worker's compensation benefits to unmarried injured workers as is currently provided to married injured workers;
- the existing and prior Washington laws, rules, and case law governing these workers;
- the workers' compensation laws and regulations of other states governing benefit payments to married and unmarried injured workers; and
- any other information L&I deems relevant.

By December 1, 2022, L&I must report to the Governor and the appropriate committees of the Legislature, providing:

- the impacts;
- a summary of the history of any Washington laws and the workers' compensation laws and regulations of other states; and
- any recommendations for how the statutes and rules may be amended to address the disparity of benefits paid based on marital status while limiting adverse impacts to Washington's workers' compensation funds and the workers' compensation premium rates.

While L&I is conducting the study, it must meet at least three times with a representative of the largest business association and a representative of labor organization to discuss the information gathered by L&I.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE & TRIBAL AFFAIRS COMMITTEE (First Substitute):

- Removes the provisions making the percentages and additional amount per month for permanent and temporary total disability payments the same for unmarried workers as married workers.
- Adds a study by L&I related to the disparity in worker's compensation benefits based on marital status, including the impact to the workers' compensation fund, premium rates, and self-insurers.

Appropriation: None.

Fiscal Note: Requested on January 11, 2022.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This came up last year on another bill. The idea that if you are a single parent and you were permanently disabled you would get a smaller percentage of your wages is confusing since single parents don't have that extra support and the expenses to support your family are not less. This is a narrowly focused bill. There shouldn't be a penalty for being unmarried. This will improve conditions for unmarried injured workers. There was a work group convened to look at wages. This issue was one of the reasons the workgroup was convened. When determining the time loss calculations, they should be done with care, looking at the impacts on injured workers.

CON: If there was a problem with the level of benefits, L&I would be leading the charge for the change. There are other problems to address, like the premiums for the COLA rather than regular industrial insurance. This is paid even if the employer hasn't had a claim. This issue should be studied before a change.

This may have a large fiscal note. The average percentage is around 63 percent of wages. If it is increased to 65 percent, this will increase the cost to employers and employees at a time when we are looking for relief for employers and employees. This unwinds one part of a very complicated system. The benefit accuracy work group studied these issues for four years. The bill creates winners and losers. This is a vast increase in benefits. A uniform

percentage should be available for all workers. This will add a significant cost. Self-insurers pay this cost directly. There needs to be a larger solution. We should go back and have a robust discussion on the larger picture.

OTHER: This may be estimated a 3 percent to 3.5 percent increase in wages. There will be a fiscal note.

Persons Testifying: PRO: Senator Rebecca Saldaña, Prime Sponsor; Joe Kendo, Washington State Labor Council, AFL-CIO.

CON: John Meier; Christine Brewer, Washington Self Insurers Association; Robert Battles, Association of Washington Business (AWB); Carolyn Logue, Washington Food Industry Association.

OTHER: Tammy Fellin.

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