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**Labor & Workplace Standards  
Committee**

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**HB 1068**

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

**Sponsors:** Representatives Bronoske, Simmons, Ryu, Goodman, Berry, Bateman and Peterson.

**Brief Summary of Bill**

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

**Hearing Date:** 1/10/23

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

**Background:**

In the workers' compensation system, a State Fund or self-insured employer's claim manager may request that an injured worker submit to a medical examination (often called independent medical exams or IMEs) 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 examinations are performed by medical providers approved by the Department of Labor and Industries (Department). The provider must submit written reports of the examination to the worker, the worker's attending physician, and the person ordering the examination. Generally, information contained in claim files and records of injured workers are confidential and are not subject to public inspection.

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*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.*

Based on the Department's rules, workers are prohibited from recording the examination. The rules allow workers to bring an adult friend or family member to "provide comfort and reassurance" in physical examinations. The worker may not bring a third person in during psychiatric examinations. The person accompanying the 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 examination.

Legislation enacted in 2020 made changes to the medical examination statutes and required the Department to convene a work group to discuss ways to improve the process. The work group issued a report to the Legislature in December 2020. One of the topics the work group discussed was audio and video recording of examinations; however, the work group did not vote on, and the Department did not make recommendations for, recording these medical examinations.

**Summary of Bill:**

The definition is changed to refer to these examinations as "compelled examinations."

A worker has a right to audio and video record all compelled examinations. 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 examination.

The worker must take reasonable steps to ensure the recording equipment does not interfere with the examination. Benefits received as a result of any material alteration to the recording may be subject to repayment of those benefits.

Recordings are considered confidential as provided under the existing confidentiality statute.

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

**Appropriation:** None.

**Fiscal Note:** Requested on January 6, 2023.

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