

CERTIFICATION OF ENROLLMENT

SENATE BILL 6522

Chapter 142, Laws of 2014

63rd Legislature
2014 Regular Session

PUBLIC RECORDS--EXEMPTION--INDUSTRIAL INSURANCE SETTLEMENT
NEGOTIATIONS

EFFECTIVE DATE: 06/12/14

Passed by the Senate February 12, 2014
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 6, 2014
YEAS 97 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved March 28, 2014, 3:08 p.m.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6522** as passed by the Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

March 31, 2014

**Secretary of State
State of Washington**

SENATE BILL 6522

Passed Legislature - 2014 Regular Session

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.

Passed by the Senate February 12, 2014.

Passed by the House March 6, 2014.

Approved by the Governor March 28, 2014.

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