

# FINAL BILL REPORT

## SHB 1068

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Synopsis as Enacted

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

**Sponsors:** House Committee on Labor & Workplace Standards (originally sponsored by Representatives Bronoske, Simmons, Ryu, Goodman, Berry, Bateman, Peterson, Taylor, Doglio, Gregerson, Wylie, Pollet, Davis, Santos, Ormsby and Fosse).

**House Committee on Labor & Workplace Standards**  
**Senate Committee on Labor & Commerce**

### **Background:**

In the workers' compensation system, an employer's claim manager may request that an injured worker submit to a medical examination, which is typically referred to as an independent medical exam (IME). The purpose of an IME is 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 the worker's permanent disability or work restriction.

The examinations are performed by medical providers approved by the Department of Labor and Industries (Department). The IME 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.

The Department's rules prohibit a worker from recording the examination. The rules allow a worker 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 the examination 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.

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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.*

**Summary:**

A worker has a right to audio and video record independent medical examinations. No less than seven calendar days before the date of the examination, the worker or worker's representative must notify the scheduling entity that the examination will be recorded. The Department must adopt rules defining the notification process.

The worker is responsible for paying 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. The worker may not hold the recording equipment while the examination is occurring. The worker may not materially alter the recording, and 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 may not post the recording to social media.

The worker has a right to have one person present to observe the examination. The observer must be at least 18 years old and must be unobtrusive and not interfere with the examination. In addition, the third person observer may not be the worker's legal representative or an employee of the legal representative, or the worker's attending provider or an employee of the attending provider.

**Votes on Final Passage:**

House	65	33	
Senate	31	16	(Senate amended)
House	67	29	(House concurred)

**Effective:** July 23, 2023