

Regular Session, 2012

HOUSE BILL NO. 498

BY REPRESENTATIVE DIXON

WORKERS COMPENSATION: Provides for access to data from workers' compensation insurers for fraud detection

1 AN ACT

2 To amend and reenact R.S. 23:1293(A)(1) and to enact R.S. 23:1291.2, relative to workers'  
3 compensation; to provide that insurers and self-insured employers shall make certain  
4 information available; to provide for confidentiality; and to provide for related  
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:1293(A)(1) is hereby amended and reenacted and R.S. 23:1291.2  
8 is hereby enacted to read as follows:

9 §1291.2. Access to insurer and self-insured employers' records; fraud identification

10 A. Every insurer that writes workers' compensation insurance and every self-  
11 insured employer who maintains self-insured status to provide workers'  
12 compensation benefits shall make his workers' compensation insurance employee  
13 records and databases available to the office of workers' compensation  
14 administration for the purpose of identifying violations of this Chapter.

15 B. The director of the office of workers' compensation administration may  
16 designate the data to be reproduced, copied, or utilized at his discretion to verify that  
17 the insurer or self-insured employee is not engaging in fraudulent activities.  
18 Notwithstanding any other provision of law to the contrary, any data produced or  
19 inspected pursuant to this Section shall remain confidential and privileged and is not  
20 subject to discovery or subpoena in any legal proceeding, except in the prosecution

1        of persons or corporations according to R.S. 23:1170, et seq.. The Louisiana  
 2        Workforce Commission shall have the authority to promulgate rules and regulations  
 3        necessary to implement the provisions of this Section.

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5        §1293. Confidentiality of records; exceptions; penalties for violation

6                        A.(1) All medical records of an employee, all records of payment of  
 7        compensation to an employee or his dependent, all records with respect to the  
 8        rehabilitation or attempted rehabilitation of an injured employee, all employer  
 9        reports of injury as required by R.S. 23:1306, all claims by an employee or his  
 10       dependent filed pursuant to R.S. 23:1310, records submitted to the Louisiana  
 11       Workers' Compensation Second Injury Board concerning claims for reimbursement  
 12       arising out of a claim by an employee or his dependent filed pursuant to Chapter 10  
 13       of this Title, including but not limited to any and all records submitted for requests  
 14       for reimbursement, documents maintained in the claim files regarding  
 15       reimbursement and settlement requests, and all records submitted pursuant to R.S.  
 16       23:1378(A)(7), all safety plans pursuant to R.S. 23:1291(B)(4), and all safety records  
 17       of the OSHA section obtained in connection with the Insurance Cost Containment  
 18       Act or the OSHA 7(c)(1) program, and all data produced pursuant to R.S. 23:1291.2,  
 19       shall be confidential and privileged, shall not be public records, and shall not be  
 20       subject to subpoena, except that records of the office may be produced in response  
 21       to an order of a workers' compensation judge based upon his finding that the record  
 22       is relevant and necessary to the resolution of a disputed claim pending before the  
 23       office. Such confidentiality and privilege shall be strictly maintained by the director  
 24       and all employees of the office except as provided above or in Subsection B of this  
 25       Section and shall be used exclusively for the purpose of discharging the duties and  
 26       responsibilities of the office under this Chapter.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Dixon

HB No. 498

**Abstract:** Requires that workers' compensation insurers and self-insured employers give the office of workers' compensation administration (OWCA) access to certain records for fraud detection.

Proposed law provides that any insurer who writes workers' compensation policies or self-insured employer shall make his records available to the OWCA for review.

Proposed law provides that the data will remain confidential and is not subject to subpoena or discovery in any legal proceeding, except as otherwise provided by law.

Proposed law authorizes LWC to promulgate rules and regulations necessary to carry out the provisions of proposed law.

Proposed law allows the director of the OWCA to review and reproduce the data at his discretion to verify the insurer or self-insured employer are free from fraudulent activities.

Present law provides for the confidentiality of workers' compensation records.

Present law provides that all data produced pursuant to present law and all safety records relative to the Insurance Cost Containment Act or the OSHA 7(c)(1) program shall be confidential and privileged.

Proposed law adds proposed law to the records that shall be confidential and privileged.

(Amends R.S. 23:1293(A)(1); Adds R.S. 23:1291.2)