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 payors shall make certain information available; to
4	provide for confidentiality; and to provide for related matters.
5	Be it enacted by the Legislature of Louisiana:
6	Section 1. R.S. 23:1293(A)(1) is hereby amended and reenacted and R.S. 23:1291.2
7	is hereby enacted to read as follows:
8	<u>§1291.2.</u> Access to payors' records; fraud identification
9	A. Each payor, as defined by R.S. 23:1142, shall make his claims and
10	payment data, if such data are maintained, available to the office of workers'
11	compensation administration for the purpose of identifying violations of this
12	Chapter.
13	B. The director of the office of workers' compensation administration may
14	designate the data to be reproduced, copied, or utilized at his discretion to verify that
15	employers and claimants are not engaging in fraudulent activities. Notwithstanding
16	any other provision of law to the contrary, any data produced or inspected pursuant
17	to this Section shall remain confidential and privileged and are not subject to
18	discovery or subpoena in any legal proceeding, except in the prosecution of persons
19	or corporations according to R.S. 23:1170, et seq. The Louisiana Workforce

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

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

to implement the provisions of this Section.

Commission shall have the authority to promulgate rules and regulations necessary

A.(1) All medical records of an employee, all records of payment of 5 compensation to an employee or his dependent, all records with respect to the 6 7 rehabilitation or attempted rehabilitation of an injured employee, all employer 8 reports of injury as required by R.S. 23:1306, all claims by an employee or his 9 dependent filed pursuant to R.S. 23:1310, records submitted to the Louisiana 10 Workers' Compensation Second Injury Board concerning claims for reimbursement 11 arising out of a claim by an employee or his dependent filed pursuant to Chapter 10 12 of this Title, including but not limited to any and all records submitted for requests 13 for reimbursement, documents maintained in the claim files regarding 14 reimbursement and settlement requests, and all records submitted pursuant to R.S. 15 23:1378(A)(7) 23:1378(A)(5), all safety plans pursuant to R.S. 23:1291(B)(4), and 16 all safety records of the OSHA section obtained in connection with the Insurance 17 Cost Containment Act or the OSHA 7(c)(1) program, and all data produced pursuant 18 to R.S. 23:1291.2, shall be confidential and privileged, shall not be public records, 19 and shall not be subject to subpoena, except that records of the office may be 20 produced in response to an order of a workers' compensation judge based upon his 21 finding that the record is relevant and necessary to the resolution of a disputed claim 22 pending before the office. Such confidentiality and privilege shall be strictly 23 maintained by the director and all employees of the office except as provided above 24 or in Subsection B of this Section and shall be used exclusively for the purpose of 25 discharging the duties and 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)]

## Dixon

HB No. 498

Abstract: Requires that a payor responsible for the payment of the medical expenses incurred as a result of a work related injury shall give the office of workers' compensation administration (OWCA) access to certain records for fraud detection.

<u>Proposed law</u> provides that any payor responsible for the payment of the medical expenses incurred by a claimant as a result of a work related injury shall make his records available to the OWCA for review.

<u>Proposed law</u> 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.

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

<u>Proposed law</u> allows the director of the OWCA to review and reproduce the data at his discretion to verify that employers and claimants are free from fraudulent activities.

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

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

<u>Proposed law</u> adds <u>proposed law</u> to the records that shall be confidential and privileged.

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

Summary of Amendments Adopted by House

- Committee Amendments Proposed by <u>House Committee on Labor and Industrial</u> <u>Relations</u> to the <u>original</u> bill.
- 1. Changed the terms "insurers and self-insured employers" to "payors".
- 2. Changed the director's ability to examine records <u>from</u> the ability to examine records and databases to verify that an insurer or self-insured employer is not engaging in fraudulent activity <u>to</u> the ability to examine currently maintained claims and payment data to ensure that employers and claimants are not engaging in fraudulent activity.