

Senate Bill No. 1430

CHAPTER 624

An act to amend Section 138.7 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 19, 1998. Filed with Secretary of State September 21, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1430, Solis. Workers' compensation: privacy.

Existing law provides that a person not a party to a workers' compensation claim may not obtain individually identifiable information maintained by the Division of Workers' Compensation, except as specified. However, this provision does not exempt a record from disclosure if it is a public record under the Public Records Act, once an application for adjudication has been filed.

This bill would provide, however, with regard to those types of public records, that individually identifiable information shall not be provided to any person or public or private entity who is not a party to the claim unless the requester provides identification and states the reason for making the request. The bill would authorize the Administrative Director of the Division of Workers' Compensation to require the requester to verify the validity and correctness of the name and address of the requester. It would require a notice if the information is for preemployment screening.

The bill would provide that any residence address is confidential and shall not be disclosed, except as specified. The bill would provide, however, that these provisions shall not prohibit the use of individually identifiable information for purposes of identifying bona fide lien claimants.

This bill would state legislative intent in this regard, and would provide that its provisions are severable.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature in enacting this act to further the purposes of Section 1 of Article I of the California Constitution, which establishes the right of privacy of all Californians, while protecting the right of the press to access public records in order to perform its constitutional role of monitoring government institutions on behalf of the public these institutions serve.

SEC. 2. Section 138.7 of the Labor Code is amended to read:

138.7. (a) Except as expressly permitted in subdivision (b), a person or public or private entity not a party to a claim for workers'



compensation benefits may not obtain individually identifiable information obtained or maintained by the division on that claim. For purposes of this section, “individually identifiable information” means any data concerning an injury or claim that is linked to a uniquely identifiable employee, employer, claims administrator, or any other person or entity.

(b) (1) The administrative director, or a statistical agent designated by the administrative director, may use individually identifiable information for purposes of creating and maintaining the workers’ compensation information system as specified in Section 138.6.

(2) The State Department of Health Services may use individually identifiable information for purposes of establishing and maintaining a program on occupational health and occupational disease prevention as specified in Section 105175 of the Health and Safety Code.

(3) Individually identifiable information may be used by the Division of Workers’ Compensation, the Division of Occupational Safety and Health, and the Division of Labor Statistics and Research as necessary to carry out their duties. The administrative director shall adopt regulations governing the access to the information described in this subdivision by these divisions. Any regulations adopted pursuant to this subdivision shall set forth the specific uses for which this information may be obtained.

(4) The administrative director shall adopt regulations allowing reasonable access to individually identifiable information by other persons or public or private entities for the purpose of bona fide statistical research. This research shall not divulge individually identifiable information concerning a particular employee, employer, claims administrator, or any other person or entity. The regulations adopted pursuant to this paragraph shall include provisions guaranteeing the confidentiality of individually identifiable information.

(5) This section shall not operate to exempt from disclosure any information that is considered to be a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) contained in an individual’s file once an application for adjudication has been filed pursuant to Section 5501.5.

However, individually identifiable information shall not be provided to any person or public or private entity who is not a party to the claim unless that person identifies himself or herself or that public or private entity identifies itself and states the reason for making the request. The administrative director may require the person or public or private entity making the request to produce information to verify that the name and address of the requester is valid and correct. If the purpose of the request is related to



preemployment screening, the administrative director shall notify the person about whom the information is requested that the information was provided and shall include the following in 12-point type:

“IT MAY BE A VIOLATION OF FEDERAL AND STATE LAW TO DISCRIMINATE AGAINST A JOB APPLICANT BECAUSE THE APPLICANT HAS FILED A CLAIM FOR WORKERS’ COMPENSATION BENEFITS.”

Any residence address is confidential and shall not be disclosed to any person or public or private entity except to a party to the claim, a law enforcement agency, an office of a district attorney, any person for a journalistic purpose, or other governmental agency.

Nothing in this paragraph shall be construed to prohibit the use of individually identifiable information for purposes of identifying bona fide lien claimants.

(c) Except as provided in subdivision (b), individually identifiable information obtained by the division is privileged and is not subject to subpoena in a civil proceeding unless, after reasonable notice to the division and a hearing, a court determines that the public interest and the intent of this section will not be jeopardized by disclosure of the information. This section shall not operate to restrict access to information by any law enforcement agency or district attorney’s office or to limit admissibility of that information in a criminal proceeding.

(d) It shall be unlawful for any person who has received individually identifiable information from the division pursuant to this section to provide that information to any person who is not entitled to it under this section.

SEC. 3. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

