

By: Watson

S.B. No. 1925

A BILL TO BE ENTITLED

AN ACT

relating to certain services provided by the office of injured employee counsel under the workers' compensation program of this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 404, Labor Code, is amended by adding Section 404.1015 to read as follows:

Sec. 404.1015. REFUSAL TO PROVIDE OR TERMINATION OF SERVICES. (a) The public counsel may refuse to provide or may terminate the services of the office to any claimant who:

(1) is abusive or violent to or who threatens any employee of the office;

(2) makes unreasonable demands for office services or for assistance in claiming benefits not provided by law; or

(3) commits or threatens to commit a criminal act in pursuit of a workers' compensation claim.

(b) If the public counsel determines under Subsection (a) that the services of the office should be refused or terminated, the office shall inform the affected claimant in writing and notify the division.

(c) The office shall notify the appropriate law enforcement authority if the office becomes aware that the claimant or a person acting on the claimant's behalf commits or threatens to commit a criminal act.

SECTION 2. Section 404.105, Labor Code, is amended to read as follows:

Sec. 404.105. AUTHORITY TO ASSIST INDIVIDUAL INJURED EMPLOYEES IN ADMINISTRATIVE PROCEDURES. (a) The office, through the ombudsman program, may appear before the commissioner, [or] division, or State Office of Administrative Hearings to provide assistance to [on behalf of] an individual injured employee during:

(1) a workers' compensation [an] administrative dispute resolution process; or

(2) an enforcement action by the department or division against an employee for a violation of the Texas Workers' Compensation Act.

(b) This chapter may not be construed as requiring or allowing legal representation for an individual injured employee by an office attorney or ombudsman in any proceeding.

SECTION 3. Section 404.109, Labor Code, is amended to read as follows:

Sec. 404.109. INJURED EMPLOYEE RIGHTS; NOTICE. The public counsel shall adopt, in the form and manner prescribed by the public counsel, ~~[submit to the division and the department for adoption by the commissioners]~~ a notice of injured employee rights and responsibilities to be distributed by the division as provided by commissioner or ~~[and]~~ commissioner of insurance rules.

SECTION 4. Section 404.110, Labor Code, is amended to read as follows:

Sec. 404.110. APPLICABILITY TO PUBLIC COUNSEL OF CONFIDENTIALITY REQUIREMENTS. (a) Confidentiality requirements

1 applicable to examination reports and to the commissioner of
2 insurance under Sections 401.058, 401.105, 401.106, 441.201, and
3 501.158 [Article 1.18], Insurance Code, as applicable, and Section
4 404.111, [and to the commissioner of insurance under Section 3A,
5 Article 21.28-A, Insurance Code,] apply to the public counsel.

6 (b) An employee of the office may not be compelled to
7 disclose information communicated to the employee by a claimant on
8 any matter relating to the claimant's claim. This subsection does
9 not prohibit or alter the office's duty to notify appropriate law
10 enforcement authorities under Section 404.1015(c).

11 SECTION 5. Section 404.111, Labor Code, is amended to read
12 as follows:

13 Sec. 404.111. ACCESS TO INFORMATION. (a) Except as
14 otherwise provided by this section, the [The] office may access
15 information from an executive agency that is otherwise confidential
16 under a law of this state if that information is necessary for the
17 performance of the duties of the office, including information made
18 confidential under:

19 (1) Section 843.006, Insurance Code;
20 (2) Chapter 108, Health and Safety Code;
21 (3) Chapter 552, Government Code; and
22 (4) Sections 402.083, 402.091, and 402.092 of this
23 code.

24 (b) The office may not access information under Subsection
25 (a) that is an attorney-client communication or an attorney work
26 product, or other information protected by a privilege recognized
27 by the Texas Rules of Civil Procedure or the Texas Rules of

1 Evidence.

2 (c) In furtherance of assisting an employee under Section
3 404.105(a)(2), the office may not access information under
4 Subsection 404.111(a) to which the employee is not otherwise
5 entitled. If the office possesses any information made
6 confidential by the Texas Workers' Compensation Act or any other
7 laws of this state to which the employee is not otherwise entitled,
8 that information may not be disclosed to the employee or any other
9 party assisting an employee under Section 404.105(a)(2). Nothing
10 in this subsection prohibits or alters the office's duty to notify
11 appropriate law enforcement authorities under Section 404.1015(c).

12 (d) Except as provided by this section ~~[On request by the~~
13 ~~public counsel]~~, the division or the department shall provide any
14 information or data requested by the public counsel ~~[office]~~ in
15 furtherance of the duties of the office under this chapter.

16 (e) [(e)] The office may not make public any confidential
17 information provided to the office under this chapter. Except as
18 provided by Subsection (c), the office ~~[but]~~ may disclose a summary
19 of the information that does not directly or indirectly identify
20 the individual or entity that is the subject of the
21 information. The office may not release, and an individual or
22 entity may not gain access to, any information that:

23 (1) could reasonably be expected to reveal the
24 identity of a health care provider or an injured employee;

25 (2) reveals the zip code of an injured employee's
26 primary residence;

27 (3) discloses a health care provider discount or a

1 differential between a payment and a billed charge; or

2 (4) relates to an actual payment made by a payer to an
3 identified health care provider.

4 (f) [~~(d)~~] Information collected or used by the office under
5 this chapter is subject to the confidentiality provisions and
6 criminal penalties of:

7 (1) Section 81.103, Health and Safety Code;

8 (2) Section 311.037, Health and Safety Code;

9 (3) Chapter 159, Occupations Code; [~~and~~]

10 (4) Chapter 552, Government Code; and

11 (5) Sections [~~Section~~] 402.091 and 402.092 of this
12 code.

13 (g) [~~(e)~~] Information on health care providers and injured
14 employees that is in the possession of the office, and any
15 compilation, report, or analysis produced from the information that
16 identifies providers and injured employees is not:

17 (1) subject to discovery, subpoena, or other means of
18 legal compulsion for release to any individual or entity; or

19 (2) admissible in any civil, administrative, or
20 criminal proceeding.

21 (h) [~~(f)~~] Notwithstanding Subsection (e)(2) [~~(e)(2)~~], the
22 office may use zip code information to analyze information on a
23 geographical basis.

24 SECTION 6. This Act takes effect September 1, 2009.