

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 963

(Senators Klausmeier and Edwards)

Education, Health, and Environmental Affairs
and Finance

**Public Information Act - Workers' Compensation Commission - Denial of Part of
a Public Record**

This bill requires a custodian of a public record of the Workers' Compensation Commission (WCC) to deny inspection of the part of a record containing personal information of an individual, except under specified circumstances or by specified individuals. The bill also requires a custodian to allow inspection of the part of a public record that is a final decision by WCC under specified circumstances.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: In general, a custodian must deny inspection of the part of a public record of WCC containing the personal information of an individual other than that by an attorney of a party to a workers' compensation claim. However, a custodian must allow inspection of the part of a public record by a person in interest or a party to the claim for workers' compensation that the record concerns.

In addition, a custodian must allow inspection of the part of a public record that is a final decision of WCC (1) if authorized by a person in interest; (2) when required by federal

law; (3) for use by a federal, state, or local government, including a law enforcement agency, or a court, as specified; (4) for use in connection with specified civil, administrative, arbitral, or criminal proceedings; or (5) for use by specified insurers, insurance organizations, and insurance agents, as specified.

Current Law/Background:

Workers' Compensation Commission

All employers in Maryland are required to provide workers' compensation coverage for their employees. The cost to the employer varies by industry, and there are approximately 600 industrial classifications. Certain entities (such as the local governments and the State itself) are allowed to be self-insured, meaning they pay claims and benefits directly instead of through an insurer.

WCC receives, processes, and adjudicates claims for injured employees in the State and works to provide equitable and timely administration of the provisions of the Maryland Workers' Compensation Law to injured workers and their employers. WCC has continuing powers and jurisdiction over every workers' compensation claim and, to that end, is expressly authorized to readjust claims payments and, if appropriate, terminate claims payments. Even so, WCC may not modify a compensation award unless the modification is applied within five years after the later of (1) the date of the accident; (2) the date of disablement; or (3) the last compensation payment.

Maryland Public Information Act

Maryland's Public Information Act (PIA) establishes that all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees. Each governmental unit that maintains public records must identify a representative who a member of the public may contact to request a public record. The Office of the Attorney General (OAG) must post all such contact information on its website and in any *Public Information Act Manual* published by OAG.

Duties of Custodians

A custodian of a public record must designate types of public records that are to be made available to any applicant immediately on request and must maintain a current list of the types of public records that have been so designated.

Generally, a custodian of a public record must permit inspection of the record at a reasonable time and within 10 working days of receiving a request.

Required Denials

A custodian must deny inspection of a public record or any part of a public record if (1) the public record is privileged or confidential by law or (2) the inspection would be contrary to a State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. PIA also requires denial of inspection for personal and confidential records, including, for example, hospital and medical records, financial records, certain police and related criminal records, and licensing records.

Discretionary Denials

Unless otherwise specified, if a custodian believes that inspection of a part of a public record by an applicant would be contrary to the public interest, the custodian may deny inspection to the applicant of that part of the record. PIA specifies the types of records that are eligible for discretionary denials, including documents that would not be available through discovery in a lawsuit.

A custodian that denies inspection of a public record on this basis must provide (1) a written statement to the applicant giving the reason for denial; (2) the legal authority on which it is based; (3) a brief description of the undisclosed record (without disclosing the protected information), including an explanation of why redacting information would not address the reason for the denial; and (4) a notice of the statutory remedies available.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland Insurance Administration; Workers' Compensation Commission; Department of Legislative Services

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mm/mcr

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