

# An Act

ENROLLED SENATE  
BILL NO. 1013

By: Daniels of the Senate

and

Kannady of the House

An Act relating to workers' compensation compliance investigations; amending 51 O.S. 2011, Section 24A.12, which relates to litigation and investigatory files; authorizing Workers' Compensation Commission to keep certain files confidential; amending Sections 40, as amended by Section 16, Chapter 476, O.S.L. 2019, and 105, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2020, Sections 40 and 105), which relate to failure to secure compensation and employees as witnesses; authorizing Workers' Compensation Commission to keep certain files confidential; construing provisions; updating statutory reference; and declaring an emergency.

SUBJECT: Worker's compensation compliance investigations

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 51 O.S. 2011, Section 24A.12, is amended to read as follows:

Section 24A.12. Except as otherwise provided by state or local law, the Attorney General of the State of Oklahoma and agency attorneys authorized by law, the Workers' Compensation Commission, the office of the district attorney of any county of the state, and the office of the municipal attorney of any municipality may keep its litigation files and investigatory reports confidential.

SECTION 2. AMENDATORY Section 40, Chapter 208, O.S.L. 2013, as amended by Section 16, Chapter 476, O.S.L. 2019 (85A O.S. Supp. 2020, Section 40), is amended to read as follows:

Section 40. A. 1. Any employer who fails to secure compensation required under ~~this act~~ the Administrative Workers' Compensation Act, upon conviction, shall be guilty of a misdemeanor and subject to a fine of up to Ten Thousand Dollars (\$10,000.00) to be deposited in the Workers' Compensation Commission Revolving Fund.

2. This subsection shall not affect any other liability of the employer under ~~this act~~ the Administrative Workers' Compensation Act.

B. 1. Whenever the Workers' Compensation Commission has reason to believe that any employer required to secure the payment of compensation under ~~this act~~ the Administrative Workers' Compensation Act has failed to do so, the Commission shall serve on the employer a proposed judgment declaring the employer to be in violation of ~~this act~~ the Administrative Workers' Compensation Act and containing the amount, if any, of the civil penalty to be assessed against the employer under paragraph 5 of this subsection.

2. a. An employer may contest a proposed judgment of the Commission issued under paragraph 1 of this subsection by filing with the Commission, within twenty (20) days of receipt of the proposed judgment, a written request for a hearing.
- b. The request for a hearing does not need to be in any particular form but shall specify the grounds on which the person contests the proposed judgment, the proposed assessment, or both.
- c. If a written request for hearing is not filed with the Commission within the time specified in subparagraph a of this paragraph, the proposed judgment, the proposed penalty, or both, shall be a final judgment of the Commission and shall not be subject to further review by any court, except if the employer shows good cause why it did not timely contest the judgment or penalty.

d. A proposed judgment by the Commission under this section shall be prima facie correct, and the burden is on the employer to prove that the proposed judgment is incorrect.

3. a. If the employer alleges that a carrier has contracted to provide its workers' compensation insurance coverage for the period in question, the employer shall include the allegation in its request for hearing and shall name the carrier.

b. The Commission shall promptly notify the carrier of the employer's allegation and of the date of hearing.

c. The carrier shall promptly, and no later than five (5) days before the hearing, respond in writing to the employer's allegation by providing evidence of coverage for the period in question or by affirmatively denying the employer's allegation.

4. Hearings under this section shall be procedurally conducted as provided in Sections 69 through 78 of this title.

5. The Commission may assess a fine against an employer who fails to secure the payment of compensation in an amount up to One Thousand Dollars (\$1,000.00) per day of violation payable to the Workers' Compensation Commission Revolving Fund, not to exceed a total of Fifty Thousand Dollars (\$50,000.00) for the first violation.

6. If an employer fails to secure the payment of compensation or pay any civil penalty assessed against the employer after a judgment issued under this section has become final by operation of law or on appeal, the Commission may petition the Oklahoma County District Court or the district court of the county where the employer's principal place of business is located for an order enjoining the employer from engaging in further employment until such time as the employer secures the payment of compensation or makes full payment of all civil penalties.

7. Upon any penalty becoming final under this section, the Commission may institute collection proceedings against any assets

of the employer independently or in district court including, but not limited to, an asset hearing, garnishment of income and wages, judgment lien, or an intercept of an income tax refund consistent with Section 205.2 of Title 68 of the Oklahoma Statutes.

8. Information subject to subsection A or B of Section 4-508 of Title 40 of the Oklahoma Statutes may be disclosed to the employees of the Commission for purposes of investigation and enforcement of workers' compensation coverage requirements pursuant to this title, and such information shall be admissible in any hearing before an administrative law judge of the Commission.

9. Litigation files and investigatory reports of the Commission arising from enforcement of the provisions of this section shall be confidential pursuant to Section 24A.12 of Title 51 of the Oklahoma Statutes.

SECTION 3. AMENDATORY Section 105, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2020, Section 105), is amended to read as follows:

Section 105. A. No employee of the Workers' Compensation Commission shall be competent to testify on any matter concerning any information the employee has received through the performance of the employee's duties under the provisions of ~~this act~~ the Administrative Workers' Compensation Act; provided, however, such provision shall not be construed to prohibit testimony by an attorney of the Compliance Division of the Commission or an investigator of the Division called to provide testimony by the attorney.

B. The commissioners and employees of the Commission shall not solicit employment for any attorney or physician nor shall they recommend or refer any claimant or employer to an attorney or physician. If any employee of the Commission makes such a solicitation, recommendation or reference, that person, upon conviction, shall be guilty of a misdemeanor punishable, for each offense, by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail not to exceed one (1) year, or by both such fine and imprisonment. The Commission shall immediately terminate the employment of any employee who is guilty of such solicitation, recommendation or reference. A commissioner

guilty of such solicitation, recommendation or reference shall be subject to removal from office.

C. No administrative law judge shall engage in any ex parte communication with any party to an action pending before the Commission or with any witness or medical provider regarding the merits of a specific matter pending before the judge for resolution. Any violation of this provision shall subject the judge to disqualification from the action or matter upon presentation of an application for disqualification.

SECTION 4. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 19th day of May, 2021.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2021.

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Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_