

1 S.125

2 Introduced by Committee on Economic Development, Housing and General

3 Affairs

4 Date: March 18, 2025

5 Subject: Labor; Executive; workers' compensation; Judiciary Employees

6 Labor Relations Act; collective bargaining rights

7 Statement of purpose of bill as introduced: This bill proposes to require
8 workers' compensation insurance carriers to pay for translation services, to
9 allow workers' compensation claimants to request medical case management
10 services, and to increase penalties for the late payment of workers'
11 compensation benefits. This bill also proposes to allow judiciary supervisors
12 to organize and bargain collectively and to appropriate additional funding to
13 increase staffing at the Vermont Labor Relations Board.

14 An act relating to workers' compensation and collective bargaining rights

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 * * * Workers' Compensation * * *

17 Sec. 1. 21 V.S.A § 601 is amended to read:

18 § 601. DEFINITIONS

19 As used in this chapter:

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(31) “Medical case management” means the planning and coordination of health care services appropriate to achieve the goal of medical rehabilitation.

(A) Medical case management may include medical case assessment, including a personal interview with the injured employee; assistance in developing, implementing, and coordinating a medical care plan with health care providers in consultation with the injured employee and the employees’ family; and an evaluation of treatment results. The goal of medical case management is to provide the injured employee with reasonable treatment options to ensure that the injured employee can make an informed choice.

(B) Medical case managers shall not provide medical care or adjust claims.

(C) An injured employee shall be entitled to medical case management services if reasonably supported. Reasonable support includes a recommendation made by a health care provider or evidence demonstrating the injured employee’s medical recovery would benefit from the services, or both.

1 Sec. 2. 21 V.S.A. § 602 is amended to read:

2 § 602. PROCESS AND PROCEDURE

3 * * *

4 (d) When an injured employee does not speak English fluently, the
5 employer shall pay for translation services to ensure the injured employee fully
6 understands the employee's rights and can effectively participate in the
7 employee's medical recovery and the workers' compensation claims process.

8 Sec. 3. 21 V.S.A. 640b is amended to read:

9 § 640b. REQUEST FOR PREAUTHORIZATION TO DETERMINE IF
10 PROPOSED BENEFITS OR SERVICES ARE NECESSARY

11 (a) As used in this section:

12 (1) “benefits” “Benefits” means medical treatment and surgical,
13 medical, and nursing services and supplies, including prescription drugs and
14 durable medical equipment.

15 (2) “Services” means medical case management services.

16 * * *

17 (e) Within 14 days after receiving a request for preauthorization of
18 proposed medical case management services, the insurer shall do one of the
19 following, in writing:

1 (1) Authorize the services and notify the injured employee, the
2 Department, and the treating provider recommending the services, if
3 applicable.

4 (2) Deny the services because the entire claim is disputed, and the
5 Commissioner has not issued an interim order to pay benefits. The insurer
6 shall notify the injured employee, the Department, and the treating provider
7 recommending the services, if applicable, of the decision to deny benefits.

8 (3) Deny the request if there is not reasonable support for the requested
9 services. The insurer shall notify the injured employee, the Department, and
10 the treating provider recommending the services, if applicable, of the decision
11 to deny benefits.

12 (4) Notify the injured employee, the Department, and the treating
13 provider recommending the services, if applicable, that the insurer has
14 scheduled an examination of the injured employee pursuant to section 655 of
15 this title or ordered a medical record review pursuant to section 655a of this
16 title. Based on the examination or review, the insurer shall notify the injured
17 employee and the Department of the decision within 45 days after a request for
18 preauthorization. The Commissioner may, in the Commissioner's sole
19 discretion, grant a 10-day extension to the insurer to authorize or deny the
20 services, and such an extension shall not be subject to appeal.

1 (f) If the insurer fails to authorize or deny the services pursuant to
2 subsection (e) of this section within 14 days after receiving a request, the
3 injured employee or the injured employee's treating provider, if applicable,
4 may request that the Department issue an order authorizing services. After
5 receipt of the request, the Department shall issue an interim order within five
6 days after notice to the insurer, and five days in which to respond, absent
7 evidence that the entire claim is disputed. Upon request of a party, the
8 Commissioner shall notify the parties that the services have been authorized by
9 operation of law.

10 (g) If the insurer denies the preauthorization of the services pursuant to
11 subdivision (e)(2), (3), or (4) of this section, the Commissioner may, on the
12 Commissioner's own initiative or upon a request by the injured worker, issue
13 an order authorizing the services if the Commissioner finds that the evidence
14 shows that the services are reasonably supported.

15 Sec. 4. 21 V.S.A. § 650 is amended to read:

16 § 650. PAYMENT; AVERAGE WAGE; COMPUTATION

17 * * *

18 (f)(1)(A) When benefits have been awarded or are not in dispute as
19 provided in subsection (e) of this section, the employer shall establish a
20 weekday on which payment shall be mailed or deposited and notify the

1 claimant and the Department of that day. The employer shall ensure that each
2 weekly payment is mailed or deposited on or before the day established.

3 (B) Payment shall be made by direct deposit to a claimant who elects
4 that payment method. The employer shall notify the claimant of the
5 claimant's right to payment by direct deposit.

6 (2) If the benefit payment is not mailed or deposited on the day
7 established, or if the payment is not mailed or deposited within five business
8 days following the end of the pay period the payment covers, the employer
9 shall pay to the claimant a late fee equal to the greater of \$10.00 or:

10 (A) five percent of the benefit amount, ~~whichever is greater,~~ for each
11 ~~weekly~~ the first payment that is made after the established day;

12 (B) 10 percent of the benefit amount for the second payment that is
13 made after the established day; and

14 (C) 15 percent of the benefit amount for the third and any subsequent
15 payments that are made after the established day.

16 (3) As used in this subsection, "paid" means the payment is mailed to
17 the claimant's mailing address or, in the case of direct deposit, transferred into
18 the designated account. In the event of a dispute, proof of payment shall be
19 established by affidavit.

20 * * * Labor Relations * * *

21 Sec. 5. 3 V.S.A. § 1011 is amended to read:

1 § 1011. DEFINITIONS

2 As used in this chapter:

3 * * *

4 (8) “Employee,” means any individual employed and compensated on a
5 permanent or limited status basis by the Judiciary Department, including
6 permanent part-time employees and any individual whose employment has
7 ceased as a consequence of, or in connection with, any current labor dispute or
8 because of an unfair labor practice. “Employee” does not include any of the
9 following:

10 (A) a Justice, judge, assistant judge, magistrate, or hearing officer;

11 (B) the Court Administrator;

12 (C) a managerial, ~~supervisory~~, or confidential employee;

13 (D) a law clerk, attorney, or administrative assistant or private
14 secretary to a judge, Justice, or Court Administrator;

15 (E) an individual employed on a temporary, contractual, seasonal, or
16 on-call basis, including an intern;

17 (F) an employee during the initial or extended probationary period;

18 (G) the head of a department or division;

19 (H) [Repealed.]

20 (I) an attorney for the Supreme Court, for the Court Administrator,
21 or for any board or commission created by the Supreme Court;

1 (J) an employee paid by the State who is appointed part-time as
2 county clerk pursuant to 4 V.S.A. § 651 or 691;

3 (K) an employee who, after hearing by the Board upon petition of
4 any individual, the employer, or a collective bargaining unit, is determined to
5 be in a position that is sufficiently inconsistent with the spirit and intent of this
6 chapter to warrant exclusion.

7 * * *

Sec. 5a. 3 V.S.A. § 941 is amended to read:

*§ 941. UNIT DETERMINATION, CERTIFICATION, AND
REPRESENTATION*

** * **

(c)(1) A petition may be filed with the Board, in accordance with procedures prescribed by the Board by an employee or group of employees, or any individual or employee organization purporting to act on their behalf, alleging by filing a petition or petitions bearing signatures of not less than 30 percent of the employees that they wish to form a bargaining unit and be represented for collective bargaining, or that the individual or employee organization currently certified as the bargaining agent is no longer supported by at least 51 percent of the employees in the bargaining unit, or that they are now included in an approved bargaining unit and wish to form a separate bargaining unit under Board criteria for purposes of collective bargaining. The employee, group of employees, individual, or employee organization that files the petition, shall, at the same time that the petition is filed with the Board, provide a copy of the petition to the employer and, if appropriate, the current bargaining agent.

(2) A petition may be filed with the Board, in accordance with procedures prescribed by the Board, by an employee or group of employees, or any individual or employee organization purporting to act on their behalf, alleging by filing a petition or petitions bearing signatures of not less than 50 percent plus one of the employees that the individual or employee organization currently certified as the bargaining agent is no longer supported by a majority of the employees in the bargaining unit. The employee, group of employees, individual, or employee organization that files the petition shall, at the same time that the petition is filed with the Board, provide a copy of the petition to the employer and, if appropriate, the current bargaining agent.

(A)(i) An employer shall, not more than seven business days after receiving a copy of the petition, file any objections to the appropriateness of the proposed bargaining unit and raise any other unit determination issues with the Board and provide a copy of the filing to the employee, group of employees, individual, or employee organization that filed the petition.

** * **

(d) The Board, a Board member, or a person or persons designated by the Board shall investigate the petition and do one of the following:

(1) Determine that the petition has made a sufficient showing of interest pursuant to ~~subdivision~~ subdivisions (c)(1) and (2) of this section.

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** * * State Construction Projects * * **

Sec. 5b. 29 V.S.A. § 161 is amended to read:

§ 161. REQUIREMENTS ON STATE CONSTRUCTION PROJECTS

** * **

(d) Subsections (a) through (c) and subsection (g) of this section shall not apply to maintenance or construction projects carried out by the Agency of Transportation and by the Department of Forests, Parks and Recreation.

** * **

(g) Employers and subcontractors contracting with the State of Vermont pursuant to this section shall keep a true and accurate record of all employees working on the project.

(1) For each employee, the record shall include:

(A) the name of the employee;

(B) the address of the employee;

(C) the hours worked by the employee;

(D) the wages paid to the employee;

(E) the employee's rate of pay; and

(F) the classification of the employee; the licensed trades shall supply proof of classification of journey workers and indentured apprentices.

(2) The records described in subdivision (1) of this subsection shall be submitted weekly by U.S. mail or email to the State agency overseeing the construction project. The records shall be accompanied by a signed statement from the employer or subcontractor verifying the accuracy of the records.

(3) Each employer and subcontractor shall preserve the records described in subdivision (1) of this subsection for three years from the date of completion of the State project. The records shall be available for inspection by the Commissioner of Labor at any reasonable time upon request.

(4) The records received pursuant to subdivision (2) of this subsection shall be subject to inspection or copying pursuant to 1 V.S.A. §§ 315–320.

1 ~~Sec. 6. VERMONT LABOR RELATIONS BOARD, APPROPRIATION~~
2 ~~fiscal year 2026, \$250,000.00 is appropriated from the General Fund to the~~
3 ~~Labor Relations Board to increase staffing.~~

4 ~~Sec. 7. EFFECTIVE DATE~~
~~This act shall take effect on July 1, 2025.~~

**** Effective Dates ****

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1–5a shall take effect on July 1, 2025.

(b) Sec. 5b shall take effect on July 1, 2026.