

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

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This is a rough first draft that attempts to address each of the six areas of our independent (external) review process that are not in compliance with the NAIC-similar process standard. In this draft, in compliance with that standard, the commissioner, rather than the insured, selects the independent review organization (IRO). This change in our procedure may affect the required timelines. For example, under current law, the insured selects an IRO and notifies the insurer both of the request for independent review (IR) and of the IRO selected. The insurer then notifies the commissioner and has five business days from the date of receiving notice of the request for IR from the insured to submit copies of various types of information to the IRO. In this draft, the insured notifies the commissioner and the insurer of the request for IR, the commissioner then selects an IRO and notifies the insured, the insurer, and the IRO. (There are, of course, other possibilities.) Is it still reasonable to require the insurer to submit information to the IRO within five days of receiving notice of the request for IR since the commissioner must first select an IRO after receiving the notice of the request at the same time as the insurer, or should the five-day timeline start when the insurer receives notice of which IRO is selected? The timelines within which the IRO must make decisions generally run in relation to the notice of the request for review. Is that the notice from the insured to the commissioner or the notice from the commissioner to the IRO? Under the bill as it is currently drafted, the decision in the normal IR must be served or mailed no more than 60 days after notice was given to the commissioner by the insured; the decision in the expedited IR, however, must be provided within four business days after the IRO received notice of the IR from the commissioner.

Another possible problem area is the procedure used for review of experimental determinations. Under the NAIC-similar process standard, experimental determinations must be reviewed with "all of the protections" of adverse determination reviews. The statutes, however, do not specify procedures for any of the types of IR.

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