2017 DRAFTING REQUEST

Bill

For:

André Jacque (608) 266-9870

Drafter:

amckean

By:

Rep. Jacque

Secondary Drafters:

Date:

5/19/2017

May Contact:

Same as LRB:

Submit via email:

YES

Requester's email:

Rep.Jacque@legis.wisconsin.gov

Carbon copy (CC) to:

tamara.dodge@legis.wisconsin.gov

aaron.mckean@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Workers compensation claims for first responders for PTSD

Instructions:

For first responders, provide presumption of work-related injury based on diagnosis of PTSD and remove requirement of unusual stress test

Drafting History:

Vers.	<u>Drafted</u>	Reviewed	Submitted	<u>Jacketed</u>	Required
/?	amckean 5/31/2017	aernsttr 6/1/2017			
/P1	amckean 6/7/2017	aernsttr 6/7/2017	lparisi 6/1/2017		State S&L
/1			hkohn 6/7/2017	hkohn 6/27/2017	State S&L

FE Sent For:

<END>

2017-2018 DRAFTING INSERT FROM THE LEGISLATIVE REFERENCE BUREAU

INS Analysis A

This bill makes changes to the conditions of liability for worker's compensation benefits for a law enforcement officer, a fire fighter, or a member of emergency services personnel (public safety employee) who is diagnosed with post-traumatic stress disorder.

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INS Analysis B

This bill also provides that, in the case that a public safety employee suffers a mental injury that results in a diagnosis of post-traumatic stress disorder and crose out of his or her employment, that employee is not required to show that the mental injury was caused by unusual stress of greater dimensions than the day-to-day emotional strain and tension experienced by similarly situated employees in order for the injury to be compensable under the worker's compensation law. Current law, under School District No. 1 v. DILHR, 62 Wis 2d 370, 215 N.W.2d (737) (1974), requires that, for a mental injury to be compensable under the worker's compensation law, the mental injury must result "from a situation of greater dimensions than the day-to-day emotional strain and tension which all employees must experience."

INS 2-5

(b) A law enforcement officer, as defined in s. 23.33 (1) (ig), a fire fighter, an emergency medical services practitioner, as defined in s. 256.01 (5), or an emergency medical responder, as defined in s. 256.01 (4p), who suffers a mental injury that results in a diagnosis of post-traumatic stress disorder and arises out of his or her employment may not be required to show unusual stress of greater dimensions than the day-to-day emotional strain and tension experienced by similarly situated employees for the mental injury to be compensable under this chapter.

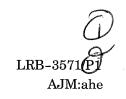
****Note: In your drafting request, you also asked for a provision that would allow a worker to recover benefits for injuries that occur as a result of repeated occurrences or repeated exposure to hazards that do not necessarily qualify as accidents or traumatic events. Current law provides recovery for those types of injuries, whether they are mental or physical, under the concept of occupational disease. Please let me know of any questions you have or if you want to discuss further recovery for nonotraumatic injuries.



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State of Misconsin 2017 - 2018 LEGISLATURE



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT to create 102.03 (6) of the statutes; relating to: worker's compensation

claims by certain public safety employees for post-traumatic stress disorder.

Analysis by the Legislative Reference Bureau

This bill makes changes to the conditions of liability for worker's compensation benefits for a law enforcement officer, a fire fighter, or a member of emergency services personnel (public safety employee) who is diagnosed with post-traumatic stress disorder.

The bill creates a presumption that a diagnosis of post-traumatic stress disorder in a public safety employee arises out of the employee's employment for purposes of worker's compensation. Current law provides that an employer is liable for accidents or diseases of its employees if the accident or disease causing injury arose out of the employee's employment.

The bill also provides that, in the case that a public safety employee suffers a mental injury that arises out of his or her employment and results in a diagnosis of post-traumatic stress disorder, the employee is not required to show that the mental injury was caused by unusual stress of greater dimensions than the day-to-day emotional strain and tension experienced by similarly situated employees in order for the injury to be compensable under the worker's compensation law. Current law, under *School District No. 1 v. DILHR*, 62 Wis. 2d 370, 215 N.W.2d 373 (1974), requires that, for a mental injury to be compensable under the worker's compensation law, the mental injury must result "from a situation of greater dimensions than the day-to-day emotional strain and tension which all employees must experience."

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Section 1. 102.03 (6) of the statutes is created to read:

102.03 (6) (a) A diagnosis of post-traumatic stress disorder of a law enforcement officer, as defined in s. 23.33(1)(ig), a fire fighter, an emergency medical services practitioner, as defined in s. 256.01(5), or an emergency medical responder, as defined in s. 256.01(4p) is presumed to arise out of the employee's employment. The burden of proving that the diagnosis under this subsection is not related to employment is on the party asserting that the diagnosis is not related to employment.

****Note: This subsection is drafted assuming that 2017 Assembly Bill 59, which changes the terminology for emergency medical services personnel, is signed into law.

(b) A law enforcement officer, as defined in s. 23.33 (1) (ig), a fire fighter, an emergency medical services practitioner, as defined in s. 256.01 (5), or an emergency medical responder, as defined in s. 256.01 (4p), who suffers a mental injury that results in a diagnosis of post-traumatic stress disorder and arises out of his or her employment may not be required to show unusual stress of greater dimensions than the day-to-day emotional strain and tension experienced by similarly situated employees for the mental injury to be compensable under this chapter.

****Note: In your drafting request, you also asked for a provision that would allow a worker to recover benefits for injuries that occur as a result of repeated occurrences or repeated exposure to hazards that do not necessarily qualify as accidents or traumatic events. Current law provides recovery for those types of injuries, whether they are mental or physical, under the concept of occupational disease. Please let me know of any questions you have or if you want to discuss further recovery for nontraumatic injuries.

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Kohn, Hanna

From:

Rep.Jacque

Sent:

Tuesday, June 27, 2017 8:52 AM

To:

LRB.Legal

Subject:

Draft Review: LRB -3571/1

Please Jacket LRB -3571/1 for the ASSEMBLY.