

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:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	amckean 5/31/2017	aernstr 6/1/2017			
/P1	amckean 6/7/2017	aernstr 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: *2*
at
intro

<END>

2017-2018 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3571/?ins
AJM:...

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. ✓

INS Analysis B

^{the} ~~This~~ bill also provides ^{the} that, in the case that a public safety employee suffers a mental injury that ~~results~~ ^{and} in a diagnosis of post-traumatic stress disorder ~~and arose~~ ^{arises} 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 (37) (1974), requires ³⁷³ 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 non-traumatic injuries. ✓



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

[IN - 6/7
DUE - TODAY]

- No CHANGES -

- 1 **AN ACT to create** 102.03 (6) of the statutes; **relating to:** worker's compensation
- 2 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:

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

2 102.03 (6) (a) A diagnosis of post-traumatic stress disorder of a law
3 enforcement officer, as defined in s. 23.33 (1) (ig), a fire fighter, an emergency medical
4 services practitioner, as defined in s. 256.01 (5), or an emergency medical responder,
5 as defined in s. 256.01 (4p) is presumed to arise out of the employee's employment.
6 The burden of proving that the diagnosis under this subsection is not related to
7 employment is on the party asserting that the diagnosis is not related to
8 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.

9 (b) A law enforcement officer, as defined in s. 23.33 (1) (ig), a fire fighter, an
10 emergency medical services practitioner, as defined in s. 256.01 (5), or an emergency
11 medical responder, as defined in s. 256.01 (4p), who suffers a mental injury that
12 results in a diagnosis of post-traumatic stress disorder and arises out of his or her
13 employment may not be required to show unusual stress of greater dimensions than
14 the day-to-day emotional strain and tension experienced by similarly situated
15 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.

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.