



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5369/1
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2021 ASSEMBLY BILL 778

December 9, 2021 - Introduced by Representatives ARMSTRONG, BRANDTJEN, DOYLE, MILROY, MURSAU, PLUMER, RAMTHUN, SUBECK and SCHRAA, cosponsored by Senators JACQUE, MARKLEIN, AGARD, BALLWEG, BEWLEY and L. TAYLOR. Referred to Committee on Labor and Integrated Employment.

1 **AN ACT** *to renumber and amend* 102.17 (9) (a) 1.; *to amend* 102.17 (9) (b)
2 (intro.); and *to create* 102.17 (9) (a) 1c., 102.17 (9) (a) 1e., 102.17 (9) (a) 1g. and
3 102.17 (9) (a) 1p. of the statutes; **relating to:** changing the conditions of
4 liability for worker's compensation benefits for emergency medical services
5 practitioners, emergency medical responders, volunteer fire fighters,
6 correctional officers, emergency dispatchers, coroners and coroner staff, and
7 medical examiners and medical examiner staff.

Analysis by the Legislative Reference Bureau

This bill makes changes to the conditions of liability for worker's compensation benefits for emergency medical responders, emergency medical services practitioners, volunteer fire fighters, correctional officers, emergency dispatchers, coroners and coroner staff members, and medical examiners and medical examiner staff members and who are diagnosed with post-traumatic stress disorder (PTSD).

Under current law, if a law enforcement officer or full-time fire fighter is diagnosed with PTSD by a licensed psychiatrist or psychologist and the mental injury that resulted in that diagnosis is not accompanied by a physical injury, that law enforcement officer or fire fighter can bring a claim for worker's compensation benefits if the conditions of liability are proven by the preponderance of the evidence and the mental injury is not the result of a good faith employment action by the

ASSEMBLY BILL 778

person's employer. Also under current law, liability for such treatment for a mental injury is limited to no more than 32 weeks after the injury is first reported.

Under current law, an injured emergency medical responder, emergency medical services practitioner, volunteer fire fighter, correctional officer, emergency dispatcher, coroner, coroner staff member, medical examiner or medical examiner staff member who does not have an accompanying physical injury must demonstrate a diagnosis based on unusual stress of greater dimensions than the day-to-day emotional strain and tension experienced by all employees as required under *School District No. 1 v. DILHR*, 62 Wis. 2d 370, 215 N.W.2d 373 (1974) in order to receive worker's compensation benefits for PTSD. Under the bill, such an injured emergency medical responder, emergency medical services practitioner, volunteer fire fighter, correctional officer, emergency dispatcher, coroner, coroner staff member, medical examiner or medical examiner staff member is not required to demonstrate a diagnosis based on that standard, and instead must demonstrate a diagnosis based on the same standard as law enforcement officers and fire fighters. Finally, under the bill, an emergency medical responder, emergency medical services practitioner, volunteer fire fighter, correctional officer, emergency dispatcher, coroner, coroner staff member, medical examiner, or medical examiner staff member is restricted to compensation for a mental injury that is not accompanied by a physical injury and that results in a diagnosis of PTSD three times in his or her lifetime irrespective of a change of employer or employment in the same manner as law enforcement officers and firefighters.

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.** 102.17 (9) (a) 1. of the statutes, as created by 2021 Wisconsin Act
2 29, is renumbered 102.17 (9) (a) 1m. and amended to read:

3 102.17 (9) (a) 1m. "Fire fighter" means any person employed on a full-time
4 basis by the state or any political subdivision as a member or officer of a fire
5 department, including the 1st class cities and state fire marshal and deputies or an
6 individual who volunteers as a member or officer of such a department.

7 **SECTION 2.** 102.17 (9) (a) 1c. of the statutes is created to read:

8 102.17 (9) (a) 1c. "Correctional officer" has the meaning given in s. 102.475 (8)
9 (a).

ASSEMBLY BILL 778

1 **SECTION 3.** 102.17 (9) (a) 1e. of the statutes is created to read:

2 102.17 (9) (a) 1e. “Emergency medical responder” has the meaning given in s.
3 256.01 (4p).

4 **SECTION 4.** 102.17 (9) (a) 1g. of the statutes is created to read:

5 102.17 (9) (a) 1g. “Emergency medical services practitioner” has the meaning
6 given in s. 256.01 (5).

7 **SECTION 5.** 102.17 (9) (a) 1p. of the statutes is created to read:

8 102.17 (9) (a) 1p. “Medicolegal investigation staff member” includes a chief
9 deputy coroner, a deputy coroner, a deputy medical examiner, and any individual
10 who assists the office of a coroner or medical examiner with an investigation of a
11 death. “Medicolegal investigation staff member” does not include an individual
12 performing solely administrative functions in the office of a coroner or medical
13 examiner.

14 **SECTION 6.** 102.17 (9) (b) (intro.) of the statutes, as created by 2021 Wisconsin
15 Act 29, is amended to read:

16 102.17 (9) (b) (intro.) Subject to par. (c), in the case of a mental injury that is
17 not accompanied by a physical injury and that results in a diagnosis of
18 post-traumatic stress disorder in a law enforcement officer, as defined in s. 23.33 (1)
19 (ig), an emergency medical responder, an emergency services practitioner, a
20 correctional officer, a public safety answering point dispatcher, a coroner, a medical
21 examiner, a medicolegal investigation staff member, or a fire fighter, the claim for
22 compensation for the mental injury, in order to be compensable under this chapter,
23 is subject to all of the following:

24 **SECTION 7. Nonstatutory provisions.**

