



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-1451/P1
MIM&MED:wlj

DOA:.....Bollhorst, BB0331 - First Responder PTSD

FOR 2023-2025 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

WORKER'S COMPENSATION

Expansion of PTSD coverage for first responders

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 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 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 fire fighters.

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. 102.17 (9) (a) 1. of the statutes is renumbered 102.17 (9) (a) 1m. and amended to read:

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

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

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

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

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

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

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

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

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

SECTION 6. 102.17 (9) (b) (intro.) of the statutes is amended to read:

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

SECTION 9150. Nonstatutory provisions; Workforce Development.

(1) **WORKER'S COMPENSATION INSURANCE; RATE APPROVAL; NOTICE.** The commissioner of insurance shall submit to the legislative reference bureau for publication in the Wisconsin Administrative Register a notice of the effective date of new rates for worker's compensation insurance first approved by the commissioner under s. 626.13 after the effective date of this subsection.

SECTION 9350. Initial applicability; Workforce Development.

(1) FIRST RESPONDER PTSD COVERAGE. The treatment of s. 102.17 (9) (a) 1., 1c., 1e., 1g., and 1p. and (b) (intro.) first applies to injuries reported on the effective date of rate changes for worker's compensation insurance approved by the commissioner of insurance under s. 626.13 after the effective date of this subsection.

(END)