



Senate

General Assembly

File No. 351

January Session, 2015

Substitute Senate Bill No. 902

Senate, April 1, 2015

The Committee on Public Safety and Security reported through SEN. LARSON of the 3rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR POLICE OFFICERS, FIREFIGHTERS AND EMERGENCY MEDICAL SERVICES PROVIDERS WITH POST-TRAUMATIC STRESS DISORDER.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (16) of section 31-275 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *January 1, 2016, and applicable to the visual witnessing of a death, or the*
4 *immediate aftermath of a death, occurring on or after said date*):

5 (16) (A) "Personal injury" or "injury" includes, in addition to
6 accidental injury that may be definitely located as to the time when
7 and the place where the accident occurred, an injury to an employee
8 that is causally connected with the employee's employment and is the
9 direct result of repetitive trauma or repetitive acts incident to such
10 employment, and occupational disease.

11 (B) "Personal injury" or "injury" shall not be construed to include:

12 (i) An injury to an employee that results from the employee's
13 voluntary participation in any activity the major purpose of which is
14 social or recreational, including, but not limited to, athletic events,
15 parties and picnics, whether or not the employer pays some or all of
16 the cost of such activity;

17 (ii) A mental or emotional impairment, unless such impairment (I)
18 arises from a physical injury or occupational disease, (II) in the case of
19 a police officer, arises from such police officer's use of deadly force or
20 subjection to deadly force in the line of duty, regardless of whether
21 such police officer is physically injured, provided such police officer is
22 the subject of an attempt by another person to cause such police officer
23 serious physical injury or death through the use of deadly force, and
24 such police officer reasonably believes such police officer to be the
25 subject of such an attempt, [or] (III) in the case of a firefighter, is
26 diagnosed as post-traumatic stress disorder by a [licensed and board
27 certified mental health professional] psychiatrist licensed pursuant to
28 chapter 370 or a psychologist licensed pursuant to chapter 383,
29 determined by such [professional] psychiatrist or psychologist to be
30 originating from the firefighter witnessing the death of another
31 firefighter while engaged in the line of duty and not subject to any
32 other exclusion in this section, or (IV) in the case of a police officer,
33 firefighter or emergency medical services provider, is diagnosed as
34 post-traumatic stress disorder by a psychiatrist licensed pursuant to
35 chapter 370 or a psychologist licensed pursuant to chapter 383,
36 determined by such psychiatrist or psychologist to be originating from
37 the police officer, firefighter or emergency medical services provider
38 visually witnessing the death of a human being, or the immediate
39 aftermath of such death, provided the visual witnessing of such death
40 or the aftermath of such death occurred while the police officer,
41 firefighter or emergency medical services provider was engaged in the
42 line of duty. As used in this clause, "police officer" means a member of
43 the Division of State Police within the Department of Emergency
44 Services and Public Protection, an organized local police department
45 or a municipal constabulary, "firefighter" means a uniformed member
46 of a municipal paid or volunteer fire department, [and] "in the line of

47 duty" means any action that a police officer, [or] firefighter or
48 emergency medical services provider is obligated or authorized by
49 law, rule, regulation or written condition of employment service to
50 perform, or for which the police officer, [or] firefighter or emergency
51 medical services provider is compensated by the public entity such
52 officer or provider serves, "emergency medical services provider"
53 means a person licensed or certified under chapter 368d and employed
54 by a municipality, and "immediate aftermath" means the scene at
55 which such death occurred for a period of time not to exceed six hours
56 after such scene is secured by law enforcement officers;

57 (iii) A mental or emotional impairment that results from a personnel
58 action, including, but not limited to, a transfer, promotion, demotion
59 or termination; or

60 (iv) Notwithstanding the provisions of subparagraph (B)(i) of this
61 subdivision, "personal injury" or "injury" includes injuries to
62 employees of local or regional boards of education resulting from
63 participation in a school-sponsored activity but does not include any
64 injury incurred while going to or from such activity. As used in this
65 clause, "school-sponsored activity" means any activity sponsored,
66 recognized or authorized by a board of education and includes
67 activities conducted on or off school property and "participation"
68 means acting as a chaperone, advisor, supervisor or instructor at the
69 request of an administrator with supervisory authority over the
70 employee.

71 Sec. 2. Section 31-294h of the general statutes is repealed. (*Effective*
72 *from passage*)

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2016, and applicable to the visual witnessing of a death, or the immediate aftermath of a death, occurring on or after said date</i>	31-275(16)
Sec. 2	<i>from passage</i>	Repealer section

PS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Various State Agencies	GF, TF - Cost	See Below	See Below

Municipal Impact:

Municipalities	Effect	FY 16 \$	FY 17 \$
Various Municipalities	STATE MANDATE - Cost	See Below	See Below

Explanation

The bill will result in a cost to the state's workers' compensation program¹ and municipalities for employees with a compensable mental-mental injury (a mental injury without an accompanying physical injury) under the bill's expanded definition of personal injury for events which occurred on or after January 1, 2016. The cost depends on two factors: (1) number of claims filed (frequency) and (2) the severity of the claim, which are both unknown and highly variable. The average cost per case of a mental-mental injury resulting in absence from work can range from \$20,000 to \$150,000.² By way of example, a basic claim for the state with lost wage (TTD), permanent partial disability (PPD) and cost of medical services is estimated to be

¹ The State's workers' compensation program is self-insured and therefore is responsible for the total cost of claims incurred as opposed to a fully insured policy where the state would pay a set annual premium.

² Source: NCCI (National Council on Compensation Insurance). These figures are based on data reported from fully insured entities.

approximately \$88,000 over the life of the claim.³ For reference each 1% increase in state workers' compensation costs is approximately \$1.1 million. The bill requires a diagnosis of Post-Traumatic Stress Disorder (PTSD). In addition, the bill defines "immediate aftermath" to be a period not to exceed six hours. These limiting factors may mitigate the potential cost to the state plan and to municipalities.

Frequency

The number of potential claims is indeterminate. The bill's coverage applies to police officers, firefighters (including volunteer firefighters) and ambulance workers ("emergency responders"). There are approximately 26,650 firefighters, 20,561 emergency responders, 7,279 police officers, and 1,116 sworn state police officers (total population is approximately 55,606 people).⁴

Severity

The severity of the claim is related to the cost associated with providing necessary medical treatment and indemnity benefits. Unlike physical impairments, the treatment duration for PTSD is highly variable. The ultimate cost of medical benefits depends on the duration and scope of treatment.

It is important to note that once an injury is identified as a work related injury and covered under the workers' compensation program any subsequent injury or impairment which can be causally linked to

³ The estimate is based on (1) first year temporary total disability (TTD) cost of \$21,000 (\$13,000 in lost wages and \$8,000 medical (\$100-\$300 per visit for approximately 2 visits per week)), (2) additional permanent partial disability (PPD) benefit of \$52,000, and (3) \$15,000 in future medical costs. The estimate assumes the average first responder weekly indemnity benefit is approximately \$1,000 and maximum medical improvement of 10%. Medical costs refer only to mental health related out-patient services and exclude any other medical care related to the claim. This assumes the individual is classified as having a PPD. A TTD has no cap on treatment or duration.

⁴ The number of fire fighters and emergency responders may be overstated as an individual may be a fire fighter and an EMT. Member statistics based on information from the Connecticut State Firefighters Association for 2014. The number of emergency responders as reported by the CT Dept. of Public Health.

the initial injury is also covered by workers' compensation, resulting in a wide range of potential per claim costs.

Long term PTSD, has been linked to other physical health issues including but not limited to cardiovascular disease.⁵ In the event an individual receiving workers' compensation coverage for PTSD develops a physical ailment whose etiology is linked to their emotional distress, the state will be liable for the cost of treating the employee's related physical condition. The fiscal impact will depend on the condition and course of treatment.

Municipal Impact

The bill will result in a cost to municipalities. It is not known how many mental-mental claims are filed in a given year by municipal police officers or firefighters. Similar to the state, the cost will depend on (1) number of claims filed and (2) the severity of the claims.

The bill is likely to result in increased premium costs for fully-insured municipalities when the costs are realized in future workers' compensation rates. Costs for self-insured municipalities will be realized when an eligible claim is filed. There are 32 self-insured municipalities and 137 fully insured municipalities for workers' compensation.⁶

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to (1) the number of claims filed, (2) the severity of the claims, and (3) any changes in premiums (for fully insured municipalities).

⁵ Coughlin, S. *Post-Traumatic Stress Disorder and Cardiovascular Disease*, The Open Cardiovascular Medicine Journal, 2011, 5, 164-170.

⁶ Source: State of Connecticut, Workers' Compensation Commission (as of March 2015).

OLR Bill Analysis**sSB 902*****AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR POLICE OFFICERS, FIREFIGHTERS AND EMERGENCY MEDICAL SERVICES PROVIDERS WITH POST-TRAUMATIC STRESS DISORDER.*****SUMMARY:**

This bill expands the workers' compensation law by:

1. extending full workers' compensation benefits (i.e., wage replacement and medical benefits) for mental or emotional impairment to firefighters, police officers, and emergency medical services providers, who a licensed psychiatrist or psychologist diagnoses with post traumatic stress disorder (PTSD) stemming from witnessing a death or "immediate aftermath" of a death (the scene up to six hours after it is secured) while performing their duties and
2. providing wage replacement benefits, instead of just medical benefits, to (a) police officers who suffer mental or emotional impairment because they used or were subjected to deadly force in the line of duty and (b) firefighters who suffer PTSD from witnessing the death of another firefighter.

Under current law, mental or emotional impairment generally qualifies for workers' compensation only if the impairment arises from a physical or occupational disease. But current law provides limited benefits for mental or emotional impairment if it:

1. in the case of a police officer, is caused by using, or being subjected to, deadly force in the line of duty or
2. in the case of a firefighter, is diagnosed as PTSD stemming from

witnessing the death of another firefighter in the line of duty.

In both instances, current law does not provide wage replacement benefits and limits medical benefits to treatment by a practicing psychiatrist or psychologist approved by the Workers' Compensation Commission chairman. The bill eliminates these limitations.

For firefighters to be eligible for workers' compensation under the above circumstances, current law requires their diagnosis to be made by a licensed and board-certified mental health professional. The bill, instead, requires the diagnosis to be made by a licensed psychologist or psychiatrist (but not other mental health professionals), who does not have to be board certified.

EFFECTIVE DATE: January 1, 2016 for the extension of the types of coverage; upon passage for the provisions affecting police officers subjected to deadly force and firefighters who witness another firefighter's death.

BACKGROUND

Workers' Compensation Law

The workers' compensation system serves as a substitute for the court system and provides employees with an "exclusive remedy" for work-related injuries.

PTSD

PTSD is an anxiety disorder that some people develop after seeing or experiencing an event that caused or threatened to cause serious harm or death. Symptoms include flashbacks or bad dreams, emotional numbness, intense guilt or worry, and angry outbursts. Traumatic events that may trigger PTSD include military combat, natural disasters, and violent crime. According to the National Institute of Mental Health, PTSD symptoms last at least one month.

Emergency Medical Services Provider

The law does not define emergency medical services provider. But it defines "emergency medical service system" as one that provides for

the delivery of health care services under emergency conditions. It defines a “provider” as any person, corporation, or organization whose primary purpose is to deliver medical care or services (CGS § 19a-175).

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute

Yea 22 Nay 3 (03/12/2015)