



Senate

General Assembly

File No. 52

February Session, 2016

Substitute Senate Bill No. 134

Senate, March 15, 2016

The Committee on Labor and Public Employees reported through SEN. GOMES of the 23rd 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 AND FIREFIGHTERS WHO ARE DIAGNOSED 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2 repealed and the following is substituted in lieu thereof (*Effective*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, determined by such professional
28 to be originating from the firefighter witnessing the death of another
29 firefighter while engaged in the line of duty and not subject to any
30 other exclusion in this section, or (IV) in the case of a police officer or
31 firefighter, is diagnosed as post-traumatic stress disorder by a licensed
32 and board certified mental health professional, determined by such
33 professional to be originating from the police officer or firefighter
34 visually witnessing the death of a human being, or the immediate
35 aftermath of such death, provided the visual witnessing of such death
36 or the aftermath of such death occurred while the police officer or
37 firefighter was engaged in the line of duty. As used in this clause,
38 "police officer" means a member of the Division of State Police within
39 the Department of Emergency Services and Public Protection, an
40 organized local police department or a municipal constabulary,
41 "firefighter" means a uniformed member of a municipal paid or
42 volunteer fire department, [and] "in the line of duty" means any action
43 that a police officer or firefighter is obligated or authorized by law,
44 rule, regulation or written condition of employment service to
45 perform, or for which the police officer or firefighter is compensated
46 by the public entity such officer serves, and "immediate aftermath"

47 means the scene at which such death occurred for a period of time not
48 to exceed six hours after such scene is secured by law enforcement
49 officers;

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

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

64 Sec. 2. Section 31-294h of the general statutes is repealed. (*Effective*
65 *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

LAB 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 17 \$	FY 18 \$
Various State Agencies	GF, TF - Cost	See Below	See Below

Note: GF=General Fund, TF=Transportation Fund

Municipal Impact:

Municipalities	Effect	FY 17 \$	FY 18 \$
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, 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.

Lastly, pursuant to current law a claim must be filed within one year from the date of accident or three years from the manifestation of a symptom of the occupational disease (CGS 31-294c). The cost to the state and municipalities will be greater if the provisions of the bill are interpreted to provide benefits retroactively for employees who did not file a claim within the time period specified in current law.

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.

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.

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 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

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).

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).

OLR Bill Analysis**sSB 134*****AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR POLICE OFFICERS AND FIREFIGHTERS WHO ARE DIAGNOSED WITH POST-TRAUMATIC STRESS DISORDER.*****SUMMARY:**

This bill makes police officers and firefighters eligible for workers' compensation benefits if:

1. while engaged in the line of duty, they see a person's death or its "immediate aftermath" (the scene of the death within six hours after law enforcement officers secure it) and
2. a licensed and board certified mental health professional diagnoses the officer or firefighter with post-traumatic stress disorder (PTSD) and determines that it originated from seeing the death or its immediate aftermath.

Under current law, mental or emotional impairments are only considered compensable personal injuries if they arise from a work-related physical injury or in certain other limited circumstances. Thus, a person who suffers from work-related PTSD, but no other work-related physical injury, is not currently eligible for benefits.

The bill also extends full workers' compensation benefits to (1) police officers who suffer a mental or emotional impairment caused by using, or being subjected to, deadly force in the line of duty and (2) firefighters diagnosed with PTSD caused by witnessing the death of another firefighter in the line of duty. Current law limits benefits in these instances to treatment by an approved psychologist or psychiatrist and does not include wage replacement benefits.

Under the bill, "police officers" are members of the State Police, an

organized local police department, or a municipal constabulary. "Firefighters" are uniformed members of a municipal paid or volunteer fire department.

EFFECTIVE DATE: The provision that provides benefits to police and firefighters with PTSD is effective January 1, 2016 and applicable to the visual witnessing of a death or its immediate aftermath occurring after that date. The provision extending full benefits to police officers who used or were subjected to deadly force and firefighter who witness the death of another firefighter is effective upon passage.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8 Nay 5 (03/01/2016)