



Senate

General Assembly

File No. 362

January Session, 2019

Substitute Senate Bill No. 164

Senate, April 3, 2019

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT INCLUDING CERTAIN MENTAL OR EMOTIONAL
IMPAIRMENTS WITHIN THE DEFINITION OF "PERSONAL INJURY"
UNDER THE WORKERS' COMPENSATION STATUTES.***

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2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

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

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

11 (i) An injury to an employee that results from the employee's

12 voluntary participation in any activity the major purpose of which is
13 social or recreational, including, but not limited to, athletic events,
14 parties and picnics, whether or not the employer pays some or all of
15 the cost of such activity;

16 (ii) A mental or emotional impairment, unless such impairment (I)
17 arises from a physical injury or occupational disease, (II) in the case of
18 a police officer, arises from such police officer's use of deadly force or
19 subjection to deadly force in the line of duty, regardless of whether
20 such police officer is physically injured, provided such police officer is
21 the subject of an attempt by another person to cause such police officer
22 serious physical injury or death through the use of deadly force, and
23 such police officer reasonably believes such police officer to be the
24 subject of such an attempt, [or] (III) in the case of a firefighter, is
25 diagnosed as post-traumatic stress disorder by a licensed and board
26 certified mental health professional, determined by such professional
27 to be originating from the firefighter witnessing the death of another
28 firefighter while engaged in the line of duty and not subject to any
29 other exclusion in this section, or (IV) in the case of any police officer
30 or firefighter, is: Diagnosed as post-traumatic stress disorder by a
31 licensed and board certified mental health professional; determined by
32 such professional to be originating from the police officer or firefighter
33 visually witnessing the death or maiming of one or more human
34 beings; not the result of some natural cause, and the visual witnessing
35 of such death or maiming, or the visual witnessing of the immediate
36 aftermath of such death or maiming, occurred while the police officer
37 or 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, "maiming" means the loss of

47 any member or organ, and "immediate aftermath" means the scene at
48 which such death or maiming occurred for a period of time not to
49 exceed six hours after such scene is secured by law enforcement
50 officers;

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

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

65 Sec. 2. (NEW) (*Effective from passage*) Not later than October 1, 2019,
66 the state shall purchase a workers' compensation insurance policy to
67 provide coverage for any claims for workers' compensation benefits
68 made pursuant to subparagraph (B)(ii)(IV) of subdivision (16) of
69 section 31-275 of the general statutes, as amended by this act.

70 Sec. 3. Section 31-294h of the general statutes is repealed. (*Effective*
71 *from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	31-275(16)
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	Repealer section

Statement of Legislative Commissioners:

In Section 1, "immediate" was inserted before "aftermath", for accuracy. Technical changes were made in Subdivision (16)(B)(ii)(IV), for clarity.

LAB *Joint Favorable Subst. -LCO*

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 20 \$	FY 21 \$
Various State Agencies	GF - Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 20 \$	FY 21 \$
All Municipalities	STATE MANDATE ¹ - Cost	See Below	None

Explanation

Sections 1 and 2 of the bill will result in a cost to the state's workers' compensation program to purchase a workers' compensation policy to provide coverage for any claims arising out of the bill's expanded definition of personal injury to include mental-mental injuries (a mental injury without an accompanying physical injury) as of October 1, 2019.² The amount of the policy will depend on various factors, including (1) the anticipated frequency of claims and (2) the anticipated severity of the claims, 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 \$150,000.³ By way of

¹ State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

² The balance of the state's workers' compensation program is assumed to remain self-insured.

³ Source: NCCI (National Council on Compensation Insurance). These figures are based on data reported from fully insured entities.

example, a basic claim for the state with lost wage (TTD), permanent partial disability (PPD) and cost of medical services is estimated to be approximately \$96,700 over the life of the claim.⁴ 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 cost to the state and municipalities.

Lastly, 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.

The bill’s coverage applies to police officers and firefighters (including volunteer firefighters). There are approximately 26,800 firefighters, 8,180 police officers, and 958 sworn state police officers (total population is approximately 35,938 people).⁵

Municipal Impact

The bill will result in a cost to municipalities to provide coverage for workers’ compensation claims made in accordance with the provisions of the bill for the period between when the bill is enacted and October 1, 2019 when the state policy will be effective.

It is not known how many mental-mental claims are filed in a given year by municipal police officers or firefighters under the current law. The cost will depend on the amount of the policy if one can be purchased or the cost of the resulting claims.

⁴ The estimate is based on (1) first year temporary total disability (TTD) cost of \$23,000 (\$14,200 in lost wages and \$9,000 medical (\$100-300 per visit for approximately 2 visits per week)), (2) additional permanent partial disability (PPD) benefit of \$57,000, and (3) \$16,700 in future medical costs. 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.

⁵ Member statistics based on information from the Connecticut State Firefighters Association for 2017.

Section 3 of the bill may result in a cost to the state's and municipal workers' compensation programs to provide wage replacement workers' compensation benefits for police officers who suffer a mental or emotional impairment caused by using, or being subject to, deadly force. Wage replacement benefits are not currently provided. It is unknown how many claims of this nature are filed annually. As previously stated, average wage replacement for the first year of a TTD claim is approximately \$14,200. There is no additional cost for section 3 for firefighters as it is conforming statute to sections 1 and 2 of the bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future and reflected in future premium and claims costs.

OLR Bill Analysis**sSB 164*****AN ACT INCLUDING CERTAIN MENTAL OR EMOTIONAL IMPAIRMENTS WITHIN THE DEFINITION OF "PERSONAL INJURY" UNDER THE WORKERS' COMPENSATION STATUTES.*****SUMMARY**

This bill makes police officers and firefighters eligible for full workers' compensation benefits (i.e., wage replacement and medical benefits) if:

1. while engaged in the line of duty, they see a person's death or maiming or its immediate aftermath;
2. the death or maiming was not the result of a natural cause; and
3. a licensed and board certified mental health professional diagnosed the officer or firefighter with post-traumatic stress disorder (PTSD) and determined that it originated from seeing the death or maiming, or its immediate aftermath.

Under the bill, "maiming" is the loss of any member or organ and "immediate aftermath" is the scene of the death or maiming within six hours after law enforcement officers secure it.

The bill requires the state, by October 1, 2019, to purchase a workers' compensation insurance policy to cover any claims for benefits under the above conditions. (Such claims would otherwise be covered by the policy of the firefighter's or police officer's employer.)

The bill similarly 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, which the bill repeals, limits benefits in these instances to treatment by an approved psychologist or psychiatrist and does not include wage replacement benefits.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 12 Nay 2 (03/14/2019)