



General Assembly

January Session, 2019

Amendment

LCO No. 10047



Offered by:

SEN. FASANO, 34th Dist.
SEN. WITKOS, 8th Dist.
SEN. BERTHEL, 32nd Dist.
SEN. BIZZARRO, 6th Dist.
SEN. CHAMPAGNE, 35th Dist.
SEN. FORMICA, 20th Dist.
SEN. HWANG, 28th Dist.

SEN. KELLY, 21st Dist.
SEN. KISSEL, 7th Dist.
SEN. LOGAN, 17th Dist.
SEN. MARTIN, 31st Dist.
SEN. MINER, 30th Dist.
SEN. SAMPSON, 16th Dist.
SEN. SOMERS, 18th Dist.

To: Subst. Senate Bill No. 164

File No. 362

Cal. No. 202

(As Amended)

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

1 Strike subparagraph (B)(ii) of section 1 in its entirety and substitute
2 the following in lieu thereof:

3 "(ii) A mental or emotional impairment, unless such impairment (I)
4 arises from a physical injury or occupational disease, (II) in the case of
5 a police officer of the Division of State Police within the Department of
6 Emergency Services and Public Protection, an organized local police
7 department or a municipal constabulary, arises from such police
8 officer's use of deadly force or subjection to deadly force in the line of

9 duty, regardless of whether such police officer is physically injured,
10 provided such police officer is the subject of an attempt by another
11 person to cause such police officer serious physical injury or death
12 through the use of deadly force, and such police officer reasonably
13 believes such police officer to be the subject of such an attempt, or (III)
14 in the case of a police officer, parole officer, emergency medical
15 responder or firefighter, is [diagnosed as] a diagnosis of post-traumatic
16 stress disorder [by a licensed and board certified mental health
17 professional, determined by such professional to be originating from
18 the firefighter witnessing the death of another firefighter while
19 engaged in the line of duty and not subject to any other exclusion in
20 this section] as defined in section 2 of this act that meets all the
21 requirements of section 2 of this act. As used in this clause, ["police
22 officer" means a member of the Division of State Police within the
23 Department of Emergency Services and Public Protection, an
24 organized local police department or a municipal constabulary,
25 "firefighter" means a uniformed member of a municipal paid or
26 volunteer fire department, and] "in the line of duty" means any action
27 that a police officer [or firefighter] is obligated or authorized by law,
28 rule, regulation or written condition of employment service to
29 perform, or for which the police officer, emergency medical responder
30 or firefighter is compensated by the public entity such officer serves;"

31 Strike section 2 in its entirety and substitute the following in lieu
32 thereof:

33 "Sec. 2. (NEW) (*Effective July 1, 2019*) (a) As used in this section:

34 (1) "Emergency medical responder" has the same meaning as
35 provided in section 20-206jj of the general statutes and includes
36 "emergency medical technician", "advanced emergency medical
37 technician", and "paramedic" as those terms are defined in section 20-
38 206jj of the general statutes;

39 (2) "Firefighter" has the same meaning as provided in section 7-313g
40 of the general statutes;

41 (3) "In the line of duty" means any action that a police officer, parole
42 officer, emergency medical responder or firefighter is obligated or
43 authorized by law, rule, regulation or written condition of
44 employment service to perform, or for which the officer or firefighter is
45 compensated by the public entity such officer or firefighter serves,
46 except that, in the case of a volunteer firefighter, such action or service
47 constitutes fire duties, as defined in subsection (b) of section 7-314b of
48 the general statutes;

49 (4) "Mental health professional" means a board-certified psychiatrist
50 or a psychologist licensed pursuant to chapter 383 of the general
51 statutes, who has experience diagnosing and treating post-traumatic
52 stress disorder;

53 (5) "Parole officer" means an employee of the Department of
54 Correction who supervises inmates in the community after their
55 release from prison on parole or under another prison release
56 program;

57 (6) "Police officer" has the same meaning as provided in section 7-
58 294a of the general statutes, except that "police officer" does not
59 include an officer of a law enforcement unit of the Mashantucket
60 Pequot Tribe or the Mohegan Tribe of Indians of Connecticut;

61 (7) "Post-traumatic stress disorder" means a disorder that meets the
62 diagnostic criteria for post-traumatic stress disorder as specified in the
63 most recent edition of the American Psychiatric Association's
64 "Diagnostic and Statistical Manual of Mental Disorders"; and

65 (8) "Qualifying event" means an event occurring in the line of duty
66 on or after July 1, 2019, in which a police officer, parole officer,
67 emergency medical responder or firefighter:

68 (A) Views a deceased minor;

69 (B) Witnesses the death of a person or an incident involving the
70 death of a person;

71 (C) Witnesses an injury to a person who subsequently dies before or
72 upon admission at a hospital as a result of the injury and not as a result
73 of any other intervening cause;

74 (D) Has physical contact with and treats an injured person who
75 subsequently dies before or upon admission at a hospital as a result of
76 the injury and not as a result of any other intervening cause;

77 (E) Carries an injured person who subsequently dies before or upon
78 admission at a hospital as a result of the injury and not as a result of
79 any other intervening cause; or

80 (F) Witnesses a traumatic physical injury that results in the loss of a
81 vital body part or a vital body function that results in permanent
82 disfigurement of the victim.

83 (b) A diagnosis of post-traumatic stress disorder is compensable as a
84 personal injury as described in subparagraph (B)(ii)(III) of subdivision
85 (16) of section 31-275 of the general statutes, as amended by this act, if
86 a mental health professional examines a police officer, parole officer,
87 emergency medical responder or firefighter and diagnoses the officer,
88 emergency medical responder or firefighter with post-traumatic stress
89 disorder as a direct result of a qualifying event, provided (1) the post-
90 traumatic stress disorder resulted from the officer, emergency medical
91 responder or firefighter acting in the line of duty and, in the case of a
92 firefighter, such firefighter complied with Federal Occupational Safety
93 and Health Act standards adopted pursuant to 29 CFR 1910.134 and 29
94 CFR 1910.156, (2) a qualifying event was a substantial factor in causing
95 the disorder, (3) such qualifying event, and not another event or source
96 of stress, was the primary cause of the post-traumatic stress disorder,
97 and (4) the post-traumatic stress disorder did not result from any
98 disciplinary action, work evaluation, job transfer, layoff, demotion,
99 promotion, termination, retirement or similar action of the officer,
100 emergency medical responder or firefighter. Any such mental health
101 professional shall comply with any workers' compensation guidelines
102 for approved medical providers, including, but not limited to,

103 guidelines on release of past or contemporaneous medical records.

104 (c) Whenever liability to pay compensation is contested by the
105 employer, the employer shall file with the commissioner, on or before
106 the twenty-eighth day after the employer has received a written notice
107 of claim, a notice in accordance with a form prescribed by the
108 chairperson of the Workers' Compensation Commission stating that
109 the right to compensation is contested, the name of the claimant, the
110 name of the employer, the date of the alleged injury and the specific
111 grounds on which the right to compensation is contested. The
112 employer shall send a copy of the notice to the employee in accordance
113 with section 31-321 of the general statutes. If the employer or the
114 employer's legal representative fails to file the notice contesting
115 liability on or before the twenty-eighth day after receiving the written
116 notice of claim, the employer shall commence payment of
117 compensation for such injury on or before the twenty-eighth day after
118 receiving the written notice of claim, but the employer may contest the
119 employee's right to receive compensation on any grounds or the extent
120 of the employee's disability within one hundred eighty days from the
121 receipt of the written notice of claim and any benefits paid during the
122 one hundred eighty days shall be considered payments without
123 prejudice, provided the employer shall not be required to commence
124 payment of compensation when the written notice of claim has not
125 been properly served in accordance with section 31-321 of the general
126 statutes or when the written notice of claim fails to include a warning
127 that the employer (1) if the employer has commenced payment for the
128 alleged injury on or before the twenty-eighth day after receiving a
129 written notice of claim, shall be precluded from contesting liability
130 unless a notice contesting liability is filed within one hundred eighty
131 days from the receipt of the written notice of claim, and (2) shall be
132 conclusively presumed to have accepted the compensability of the
133 alleged injury unless the employer either files a notice contesting
134 liability on or before the twenty-eighth day after receiving a written
135 notice of claim or commences payment for the alleged injury on or
136 before such twenty-eighth day. An employer shall be entitled, if the

137 employer prevails, to reimbursement from the claimant of any
138 compensation paid by the employer on and after the date the
139 commissioner receives written notice from the employer or the
140 employer's legal representative, in accordance with the form
141 prescribed by the chairperson of the Workers' Compensation
142 Commission, stating that the right to compensation is contested.
143 Notwithstanding the provisions of this subsection, an employer who
144 fails to contest liability for an alleged injury on or before the twenty-
145 eighth day after receiving a written notice of claim and who fails to
146 commence payment for the alleged injury on or before such twenty-
147 eighth day, shall be conclusively presumed to have accepted the
148 compensability of the alleged injury. If an employer has opted to post
149 an address of where notice of a claim for compensation by an
150 employee shall be sent, as described in subsection (a) of section 31-294c
151 of the general statutes, the twenty-eight-day period set forth in this
152 subsection shall begin on the date when such employer receives
153 written notice of a claim for compensation at such posted address.

154 (d) Notwithstanding any provision of chapter 568 of the general
155 statutes, workers' compensation benefits for any police officer, parole
156 officer, emergency medical responder or firefighter for a personal
157 injury described in subparagraph (B)(ii)(III) of subdivision (16) of
158 section 31-275 of the general statutes, as amended by this act, shall (1)
159 include any combination of medical treatment prescribed by a board-
160 certified psychiatrist or a licensed psychologist, temporary total
161 incapacity benefits under section 31-307 of the general statutes and
162 temporary partial incapacity benefits under subsection (a) of section
163 31-308 of the general statutes, and (2) be provided for a maximum of
164 fifty-two weeks from the date of diagnosis. No medical treatment,
165 temporary total incapacity benefits under section 31-307 of the general
166 statutes or temporary partial incapacity benefits under subsection (a)
167 of section 31-308 of the general statutes shall be awarded beyond four
168 years from the date of the qualifying event that formed the basis for
169 the personal injury. The weekly benefits received by an officer,
170 emergency medical responder or a firefighter pursuant to section 31-

171 307 of the general statutes or subsection (a) of section 31-308 of the
172 general statutes, when combined with other benefits including, but not
173 limited to, contributory and noncontributory retirement benefits,
174 Social Security benefits, benefits under a long-term or short-term
175 disability plan, but not including payments for medical care, shall not
176 exceed the average weekly wage paid to such officer, emergency
177 medical responder or firefighter. An officer, emergency medical
178 responder or firefighter receiving benefits pursuant to this subsection
179 shall not be entitled to benefits pursuant to subsection (b) of section 31-
180 308 of the general statutes or section 31-308a of the general statutes."

181 Strike section 7 in its entirety and substitute the following in lieu
182 thereof:

183 "Sec. 7. (NEW) (*Effective July 1, 2019*) (a) Not later than January 1,
184 2020, the Police Officer Standards and Training Council, established
185 under section 7-294b of the general statutes, the Department of
186 Correction and the Commission on Fire Prevention and Control shall
187 develop and promulgate a model critical incident and peer support
188 policy to support the mental health care and wellness of police officers,
189 as defined in section 7-294a of the general statutes, parole officers, as
190 defined in section 2 of this act, emergency medical responders, as
191 defined in section 19a-175 of the general statutes, and firefighters, as
192 defined in section 2 of this act.

193 (b) Not later than July 1, 2020, each law enforcement unit as defined
194 in section 7-294a of the general statutes, the Department of Correction
195 as employer of parole officers, each municipal or state paid or
196 volunteer fire department or emergency medical service system, as
197 defined in section 19a-175 of the general statutes, and each municipal
198 entity employing a fire marshal, deputy fire marshal, fire investigator,
199 fire inspector or other class of investigator or inspector for whom the
200 State Fire Marshal and the Codes and Standards Committee, acting
201 jointly, have adopted minimum standards of qualification pursuant to
202 section 29-298 of the general statutes, shall (1) adopt and maintain a
203 written policy that meets or exceeds the standards of the model policy

204 developed pursuant to subsection (a) of this section; (2) make peer
205 support available to such officers and firefighters; and (3) refer an
206 officer, firefighter or emergency medical responder, as appropriate,
207 seeking mental health care services to a mental health professional, as
208 defined in section 2 of this act."

209 Strike section 10 in its entirety and substitute the following in lieu
210 thereof:

211 "Sec. 10. (NEW) (*Effective July 1, 2019*) In consultation with the
212 Department of Mental Health and Addiction Services, the Commission
213 on Fire Prevention and Control, the State Fire Marshal and the Codes
214 and Standards Committee and any other state or municipal entity
215 providing training to a firefighter, as defined in section 2 of this act,
216 shall provide resilience and self-care technique training for any
217 individual who begins initial training as a firefighter or as an
218 emergency medical responder on or after January 1, 2020."