

Labor and Public Employees Committee

JOINT FAVORABLE REPORT

Bill No.: SB-660

AN ACT EXPANDING WORKERS' COMPENSATION BENEFITS FOR CERTAIN MENTAL OR EMOTIONAL IMPAIRMENTS SUFFERED BY HEALTH CARE

Title: PROVIDERS IN CONNECTION WITH COVID-19.

Vote Date: 3/25/2021

Vote Action: Joint Favorable

PH Date: 2/18/2021

File No.:

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SPONSORS OF BILL:

Labor and Public Employees Committee

REASONS FOR BILL:

Workers' Compensation does not cover job-related mental/emotional illnesses.

RESPONSE FROM ADMINISTRATION/AGENCY:

None submitted.

NATURE AND SOURCES OF SUPPORT:

MARTIN M. LOONEY, PRESIDENT PRO TEMPORE, STATE OF CT

In 1993, the General Assembly erred when it changed the law and denied workers' compensation benefits to employees suffering from mental or emotional impairment as a direct result of witnessing the death or maiming of someone that was caused by another person. Medical science has made it increasingly clear that a mental health impairment is as disabling as a physical impairment. Today there is far more sophisticated understanding of the cause and seriousness of mental and emotional impairments. It is time to correct this mistake.

STEPHEN ANDERSON, PRESIDENT, CSEA LOCAL 2001

Mr. Anderson supports this bill but did not separate it from his testimony on SB 666. It is the same.

JODY BARR, EXECUTIVE DIRECTOR, COUNCIL 4, AFSCME

All workers experiencing metal stress injury on the job should be eligible for workers' compensation. PTSD coverage is now provided in at least 33 states and this has cut down the number of employee suicides. It is more effective to treat employees than to dismiss psychologically injured employees requiring hiring and training new employees. They ask that the legislature recognize the extraordinary courage and commitment these employees muster every day to do their jobs and accept that even the bravest can be injured by what they see on the job. They ask that it be understood that there is an oppositional system set up for those requesting workers' comp, via the state Workers' Compensation Commission, where injured workers must prove their cases or be dismissed. This a fact that the opponents of providing such coverage seem to ignore. While they believe it should be for all workers, they ask that at least coverage be extended for department of corrections employees, EMS workers, judicial branch hazardous duty employees, and state and municipal emergency dispatch employees.

JOHN BRADY, REGISTERED NURSE, EXECUTIVE VICE PRESIDENT, AFT CT, AFL-CIO

All injuries are not visible at first glance. Some are psychological or emotional in nature and yet they are as great an injury as an injured arm or leg. They can sometimes be more problematic if left untreated and lead to lost time from work, depression, and even suicide. The pandemic has highlighted these emotional injuries. Many members are "essential workers" and have continued to work, despite increased risks and stress especially in healthcare. These people have lived with the physical and emotional trauma that comes from 12 hours a day that often stretched into 16 hours because there was no one to relieve them. This is not to mention the daily fear of bringing the virus home to their families or the stress from the deaths of patients, some of whom had no one else at their bedside. We need to be there for these "heroes".

NATHAN J. SHAFNER, CT TRIAL LAWERS ASSOCIATION

They like the broad approach this bill, introduced by Sen. Looney, takes because it finally offers all workers a redress from the draconian 1993 reforms carved out of the Worker's Compensation Act stand-alone mental and emotional claims. We rarely think of this inequity, but it is a sad reality that CT has its share of unintended victims, such as the bystanders of workplace shootings at the lottery office, the Hartford Dispensary, and the Sandy Hook School shootings. Higher incidents of emotional and mental stress among corrections officers, EMT workers, and dispatchers often occur; they don't know if they will have to deal with death and/or mayhem. Under current law, all these cases do not warrant any coverage. These workers must fall back on their own insurance with high deductibles and miss time from work which leads to an erosion of the employer/employee relationship. When work related claims are not provided within the Worker's Compensation system, the cost gets shifted to other areas and imposes huge financial burdens on the already limited entitlements and benefits provided by the State of CT.

Bill Garrity, RN, PRESIDENT UNIVERSITY HEALTH PROFESSIONALS, LOCAL 3837

He has over 25 years' experience in healthcare, and his testimony told of incidences where this type of legislation would be beneficial. One nurse, in the early days of COVID, had been very candid and open about what he and other healthcare workers went through with patients not allowed to have family members comfort them. Often, they would have to hold up iPads, tablets or phones so families could say goodbye. He contacted COVID and was already

staying away from his family in a hotel because his wife was also a nurse and they were trying to minimize exposure to their children. Then he got sick himself.

Not COVID related, emergency room nurses can be surprised anytime they walk into a room where they often encounter agitated psychotic or drunk patients. A patient was transported to the ER by ambulance, passed out drunk, but when he started waking up he began to get agitated and did not want to stay. He was aggressive and bullying the nurses and they asked for his help. When he went over to talk the man down and put himself between the patient and the other people, he did not know the man was armed. He was wrestling with the patient until the police department was able to come and disarm him. Only when the adrenaline faded did he realize exactly what had happened. He needed to take some time off after that. He was fortunate to have some resources, but not everyone is that lucky. This bill would provide everyone the ability to seek help they may need.

MELANIE I. KOLEK, LEGAL COUNSEL, CONNECTICUT EDUCATION ASSOCIATION

It is critical the Workers' Compensation Act be expanded to include mental and emotional impairments for all employees arising out of and in the course of one's employment. In representing teachers, she has found that the types of actions that cause these unseen injuries include, but are not limited to, being bitten, scratched, pulled, shoved to the ground and punched by students they are charged to care for and educate. Arguments against this expansion include cost and abuse factors. However, there are checks and balances in place to prevent abuse which can be converted to mental and emotional impairment claims. There are significant burdens placed upon the employee to prove a physical injury, and emotional impairment would similarly fall under this requirement allowing the employer to challenge the compensability and causality just as with physical claims. This is a fundamental mental health issue. With advances in medical science, we must make mental health services available and not deny treatment to our workers.

SAL LUCIANO, PRESIDENT, CT AFL-CIO

This bill is desperately needed. We often forget that injuries can also be to a worker's mental health or emotional well-being. Before the COVID shutdown, efforts were in progress to extend this proposal to Public Act 19-17 that covers police and fire fighters. They were trying to extend this to include dispatchers, EMS personnel and correctional staff. The pandemic reminds us of the importance of mental health and how emotional injuries cannot be avoided in the workplace. Essential workers, from medical workers to grocery store personnel, constantly fear for their own health as well as fear the loss of pay if they get sick or need to quarantine to prevent further spread. These injuries should be treated no differently than physical injuries. This bill would provide peace of mind to workers everywhere, but especially to those who selflessly serve as essential workers.

SEIU HEALTHCARE

They represent about 600 healthcare workers in the Department of Corrections who know the strain of working to deliver healthcare services while being massively understaffed. This coverage can help cut down the number of employee suicides and is a cost-effective way to help employees get back to work. It reduces the amount of terminations from psychologically injured employees and is just the right thing to do. In the event of something happening, they should be able to get the treatment they require to get back on the job.

STEPHEN WANCZYK-KARP, LMSW, NATIONAL ASSOCIATION OF SOCIAL WORKERS

CT was one of the first states to pass a mental health parity law. The purpose was to recognize that mental health conditions are as valid as physical health conditions and both should be equally treated. It is past due time the workers' compensation benefits provide the same parity as required of insurance coverage. It is indisputable that certain employment settings and jobs are extremely stressful, can be anxiety-provoking and sometimes traumatic. Having to perform tasks that are dangerous can lead to mental illness over time. COVID has greatly heightened the risks of work-related mental health conditions, but they have always existed. Research has shown that health care professionals suffer from burnout, which is associated with higher rates of anxiety, depression, substance abuse and suicide. The pandemic will see an increase in these numbers, which are work-related and need to be addressed as such. Many low-income workers have no insurance to assist them and this can actually worsen conditions because they can't afford the needed time off for treatment. Treatment delayed is treatment at higher costs financially and personally. Social workers know the harm caused to individuals, family members, and greater society when a mental or emotional condition goes untreated. They urge support of this bill.

STACY ZIMMERMAN, ASSOCIATE DIRECTOR, SEIU CT. STATE COUNCIL

PTSD should never have been excluded from workers' comp protections. No one should need to worry if they don't have access to or can't afford coverage for treatment for mental or emotional impairments caused as a result of work experience.

NATURE AND SOURCES OF OPPOSITION:

AMERICAN PROPERTY CASUALTY INSURANCE ASSOCIATION

They recognize the seriousness and prevalence of mental and emotional impairments as well as the importance of receiving treatment, but the workers' compensation system was never intended to, nor can it provide treatment and compensation for all mental illnesses impacting employees. This would have a serious impact on the affordability of workers' compensation insurance. If mental and emotional impairments were made compensable generally under the workers' compensation system, every employee who alleged a mental or emotional condition could be eligible for indemnity and medical benefits throughout their lives. These claims would make it very difficult and burdensome to the system. If the system were inundated with these claims, workers' compensation costs could increase substantially and would add to the burdens currently faced by businesses.

JOY AVALLONE, GENERAL COUNSEL, INSURANCE ASSOCIATION OF CONNECTICUT

Mental and emotional impairments are multifaceted, of complex origin, and highly subjective. Expanding coverage to include these conditions would result in a significant increase of claims and would cause claims unrelated to work to be accepted as compensable. This undermines the intent of the Workers' Compensation Act. The increases of these claims would result in an increase in hearings and administration costs. Unfortunately, these conditions are extremely common. Many originate from childhood and are unrelated to work. If mental or emotional impairments were to become compensable, any pre-condition,

including depression, general anxiety, social anxiety, separation, stress, mood, deficit hyperactivity, sleep, and eating disorders could be perceived and found compensable. Anyone eligible for such a claim would receive benefits throughout their life. This would place a tremendous burden on employers and the system as a whole. "Mental-mental" claims, (mental claims caused by mental stress) were said to be most onerous for businesses in a report according to DeCarlo and Minkowitz, because they were typically much higher than for "old-fashioned" physical claims. The Workers' Comp Act placed limitations on coverage of these stress-related claims and limited them to instances where the mental injury was caused by a physical injury or occupational disease. The lack of scientific instruments to objectively evaluate these claims makes it difficult to distinguish what is work related from claims that are not. Businesses are already struggling financially.

JOHN BLAIR, ASSOCIATE COUNCIL, CBIA

The worker's compensation system is a no-fault system designed as an exclusive remedy for employees, where employers must compensate their employees for work related injuries. In exchange, employees can't bring civil action against their employer for damages arising from the injury. It is a stable, predictable system with an efficient disposition of claims. Any disputes are done in a timely and efficient manner. If this proposal is passed, it will likely result in direct financial impact on the state's struggling businesses of all sizes. This is at a time when they can least afford it in the middle of the pandemic.

ZACH McKEOWN, CCM

CCM opposes this bill as a costly new unfunded mandate on municipalities and businesses throughout the state. It would conjure divisive tones regarding historic bills of sessions past that would have expanded workers' compensation to assist employees with PTSD. Towns can't afford to pay these benefits without the help of the state. The cost of an individual "mental-stress" case for either partial or permanent total claim could range from tens of thousands of dollars to over \$1 million for the duration of the claim. Additionally, once an injury is identified as work-related and covered under the workers' compensation system, any subsequent injury or impairment which can be casually linked to the initial injury is also covered by workers' compensation. This would result in a wide range of potential per claim costs. This broad sweeping proposal to include all workers would have dire consequences for economic health of the state at a time we should encourage, not discourage, economic development.

BETSY GARA, EXECUTIVE DIRECTOR, CT. COUNCIL OF SMALL TOWNS

CCM members have tremendous respect and appreciation for emergency medical service personnel and first responders. However, they are concerned expansion of benefits will place a heavy burden on towns and taxpayers. Recent cuts and challenges in state aid to municipalities have taken a toll on town budgets and they oppose any further unfunded mandates. The number and severity of claims make it impossible to estimate the exact cost, but premiums will most definitely increase. Declining revenues and increased costs associated with providing services are taking a toll. Increased cuts in education and public safety revenues from the state places this responsibility on the towns who are already struggling.

RORY WHELAN, REGIONAL VICE PRESIDENT NORTHEAST, NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

In recent years, society has made great strides in recognizing and treating mental health issues. Appropriate diagnoses expanded access to treatments and advances in pharmacology have benefited millions of Americans. CT ranked among the top 15 states for access to mental health care. CT law now permits workplace stress related claims where the mental injury was caused by a physical or occupational disease. Expanding this law would be detrimental to the workers' compensation system. It will generate a significant increase of claims and cause claims unrelated to work to be accepted as compensable. The result would be a significant increase in costs and threaten the affordability of workers' comp insurance. Any pre-existing mental or emotional condition, including depression, general anxiety, social anxiety, separation anxiety, stress-related disorders, mood disorders, attention deficit hyperactivity disorders, and sleep/eating disorders would be compensable. Employees alleging such claims would be eligible for indemnity and medical benefits throughout their lives. They caution legislators that the unintended consequences of approving these drastic changes will do more harm than good and are unnecessary.

Reported by: Marie Knudsen, Assistant Clerk

Date: April 8, 2021