



# Senate

General Assembly

**File No. 250**

February Session, 2022

Substitute Senate Bill No. 321

*Senate, March 31, 2022*

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 EXPANDING WORKERS' COMPENSATION COVERAGE FOR POST-TRAUMATIC STRESS INJURIES FOR ALL EMPLOYEES.***

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

1 Section 1. Section 31-294k of the 2022 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective January 1, 2023*):

4 (a) As used in this section:

5 (1) "COVID-19" means the respiratory disease designated by the  
6 World Health Organization on February 11, 2020, as coronavirus 2019,  
7 and any related mutation thereof recognized by the World Health  
8 Organization as a communicable respiratory disease;

9 (2) "Eligible individual" means a police officer, firefighter, emergency  
10 medical services personnel, Department of Correction employee,  
11 telecommunicator or health care provider and on or after January 1,  
12 2023, an employee, as defined in section 31-275;

13 (3) "Emergency medical services personnel" has the same meaning as  
14 provided in section 20-206jj;

15 (4) "Firefighter" has the same meaning as provided in section 7-313g;

16 (5) "Health care provider" means (A) a person employed at a doctor's  
17 office, hospital, health care center, clinic, medical school, local health  
18 department or agency, nursing facility, retirement facility, nursing  
19 home, group home, home health care provider, any facility that  
20 performs laboratory or medical testing, pharmacy or any similar  
21 institution, or (B) a person employed to provide personal care  
22 assistance, as defined in section 17b-706, in or about a private dwelling,  
23 provided such person is regularly employed by the owner or occupier  
24 of the dwelling for more than twenty-six hours per week;

25 (6) "In the line of duty" means any action that an eligible individual  
26 is obligated or authorized by law, rule, regulation or written condition  
27 of employment service to perform, or for which the eligible individual  
28 is compensated by the public entity such individual serves, except that,  
29 in the case of a volunteer firefighter, such action or service constitutes  
30 fire duties, as defined in subsection (b) of section 7-314b;

31 (7) "Mental health professional" means a board-certified psychiatrist  
32 or a psychologist licensed pursuant to chapter 383, who has experience  
33 diagnosing and treating post-traumatic stress injury;

34 (8) "Parole officer" means an employee of the Department of  
35 Correction who supervises inmates in the community after their release  
36 from prison on parole or under another prison release program;

37 (9) "Police officer" has the same meaning as provided in section 7-  
38 294a, except that "police officer" does not include an officer of a law  
39 enforcement unit of the Mashantucket Pequot Tribe or the Mohegan  
40 Tribe of Indians of Connecticut;

41 (10) "Post-traumatic stress injury" means an injury that meets the  
42 diagnostic criteria for post-traumatic stress disorder as specified in the  
43 most recent edition of the American Psychiatric Association's

44 "Diagnostic and Statistical Manual of Mental Disorders";

45 (11) "Qualifying event" means:

46 (A) An event occurring in the line of duty on or after July 1, 2019, in  
47 which a police officer, parole officer, firefighter, emergency medical  
48 services personnel, Department of Correction employee or  
49 telecommunicator:

50 (i) Views a deceased minor;

51 (ii) Witnesses the death of a person or an incident involving the death  
52 of a person;

53 (iii) Witnesses an injury to a person who subsequently dies before or  
54 upon admission at a hospital as a result of the injury and not as a result  
55 of any other intervening cause;

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

59 (v) Carries an injured person who subsequently dies before or upon  
60 admission at a hospital as a result of the injury and not as a result of any  
61 other intervening cause; or

62 (vi) Witnesses a traumatic physical injury that results in the loss of a  
63 vital body part or a vital body function that results in permanent  
64 disfigurement of the victim; [, or]

65 (B) An event arising out of and in the course of employment on or  
66 after March 10, 2020, in which an eligible individual who is a health care  
67 provider is engaged in activities substantially dedicated to mitigating or  
68 responding to the public health and civil preparedness emergencies  
69 declared by the Governor on March 10, 2020, or any extension of such  
70 emergency declarations; [,] and:

71 (i) Witnesses the death of a person due to COVID-19 or due to  
72 symptoms that were later diagnosed as COVID-19;

73 (ii) Witnesses an injury to a person who subsequently dies as a result  
74 of COVID-19 or due to symptoms that were later diagnosed as COVID-  
75 19;

76 (iii) Has physical contact with and treats or provides care for a person  
77 who subsequently dies as a result of COVID-19 or due to symptoms that  
78 were later diagnosed as COVID-19; or

79 (iv) Witnesses a traumatic physical injury that results in the loss of a  
80 vital body function of a person due to COVID-19 or due to symptoms  
81 that were later diagnosed as COVID-19; or

82 (C) An event arising out of and in the course of employment on or  
83 after January 1, 2023, in which an eligible individual:

84 (i) Views a deceased minor;

85 (ii) Witnesses the death of a person or an incident involving the death  
86 of a person;

87 (iii) Witnesses an injury to a person who subsequently dies before or  
88 upon admission at a hospital as a result of the injury and not as a result  
89 of any other intervening cause;

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

93 (v) Carries an injured person who subsequently dies before or upon  
94 admission at a hospital as a result of the injury and not as a result of any  
95 other intervening cause; or

96 (vi) Witnesses a traumatic physical injury that results in the loss of a  
97 vital body part or a vital body function that results in permanent  
98 disfigurement of the victim;

99 (12) "Telecommunicator" has the same meaning as provided in  
100 section 28-30; and

101 (13) "Witnesses" means, for an eligible individual who is a  
102 telecommunicator, hears by telephone or radio while directly  
103 responding to an emergency call that constitutes a qualifying event  
104 under this section and providing a dispatch assignment.

105 (b) A diagnosis of post-traumatic stress injury is compensable as a  
106 personal injury as described in subparagraph (B)(ii)(III) of subdivision  
107 (16) of section 31-275 if a mental health professional examines the  
108 eligible individual and diagnoses the individual with a post-traumatic  
109 stress injury as a direct result of a qualifying event, provided (1) the  
110 post-traumatic stress injury resulted from (A) the eligible individual  
111 acting in the line of duty if such individual is a police officer, firefighter,  
112 emergency medical services personnel, Department of Correction  
113 employee or telecommunicator and, in the case of a firefighter, such  
114 firefighter complied with Federal Occupational Safety and Health Act  
115 standards adopted pursuant to 29 CFR 1910.134 and 29 CFR 1910.156,  
116 or (B) the eligible individual acting in the course of employment if such  
117 individual is a health care provider or other employee, on or after  
118 January 1, 2023, (2) a qualifying event was a substantial factor in causing  
119 the injury, and (3) the post-traumatic stress injury did not result from  
120 any disciplinary action, work evaluation, job transfer, layoff, demotion,  
121 promotion, termination, retirement or similar action of the eligible  
122 individual. Any such mental health professional shall comply with any  
123 workers' compensation guidelines for approved medical providers,  
124 including, but not limited to, guidelines on release of past or  
125 contemporaneous medical records.

126 (c) Whenever liability to pay compensation is contested by the  
127 employer, the employer shall file with the commissioner, on or before  
128 the twenty-eighth day after the employer has received a written notice  
129 of claim, a notice in accordance with a form prescribed by the  
130 chairperson of the Workers' Compensation Commission stating that the  
131 right to compensation is contested, the name of the claimant, the name  
132 of the employer, the date of the alleged injury and the specific grounds  
133 on which the right to compensation is contested. The employer shall  
134 send a copy of the notice to the employee in accordance with section 31-

135 321. If the employer or the employer's legal representative fails to file  
136 the notice contesting liability on or before the twenty-eighth day after  
137 receiving the written notice of claim, the employer shall commence  
138 payment of compensation for such injury on or before the twenty-eighth  
139 day after receiving the written notice of claim, but the employer may  
140 contest the employee's right to receive compensation on any grounds or  
141 the extent of the employee's disability within one hundred eighty days  
142 from the receipt of the written notice of claim and any benefits paid  
143 during the one hundred eighty days shall be considered payments  
144 without prejudice, provided the employer shall not be required to  
145 commence payment of compensation when the written notice of claim  
146 has not been properly served in accordance with section 31-321 or when  
147 the written notice of claim fails to include a warning that the employer  
148 (1) if the employer has commenced payment for the alleged injury on or  
149 before the twenty-eighth day after receiving a written notice of claim,  
150 shall be precluded from contesting liability unless a notice contesting  
151 liability is filed within one hundred eighty days from the receipt of the  
152 written notice of claim, and (2) shall be conclusively presumed to have  
153 accepted the compensability of the alleged injury unless the employer  
154 either files a notice contesting liability on or before the twenty-eighth  
155 day after receiving a written notice of claim or commences payment for  
156 the alleged injury on or before such twenty-eighth day. An employer  
157 shall be entitled, if the employer prevails, to reimbursement from the  
158 claimant of any compensation paid by the employer on and after the  
159 date the commissioner receives written notice from the employer or the  
160 employer's legal representative, in accordance with the form prescribed  
161 by the chairperson of the Workers' Compensation Commission, stating  
162 that the right to compensation is contested. Notwithstanding the  
163 provisions of this subsection, an employer who fails to contest liability  
164 for an alleged injury on or before the twenty-eighth day after receiving  
165 a written notice of claim and who fails to commence payment for the  
166 alleged injury on or before such twenty-eighth day, shall be conclusively  
167 presumed to have accepted the compensability of the alleged injury. If  
168 an employer has opted to post an address of where notice of a claim for  
169 compensation by an employee shall be sent, as described in subsection

170 (a) of section 31-294c, the twenty-eight-day period set forth in this  
171 subsection shall begin on the date when such employer receives written  
172 notice of a claim for compensation at such posted address.

173 (d) Notwithstanding any provision of this chapter, workers'  
174 compensation benefits for any eligible individual for a personal injury  
175 described in subparagraph (B)(ii)(III) of subdivision (16) of section 31-  
176 275 shall (1) include any combination of medical treatment prescribed  
177 by a board-certified psychiatrist or a licensed psychologist, temporary  
178 total incapacity benefits under section 31-307 and temporary partial  
179 incapacity benefits under subsection (a) of section 31-308, and (2) be  
180 provided for a maximum of fifty-two weeks from the date of diagnosis.  
181 No medical treatment, temporary total incapacity benefits under section  
182 31-307 or temporary partial incapacity benefits under subsection (a) of  
183 section 31-308 shall be awarded beyond four years from the date of the  
184 qualifying event that formed the basis for the personal injury. The  
185 weekly benefits received by an eligible individual pursuant to section  
186 31-307 or subsection (a) of section 31-308, when combined with other  
187 benefits including, but not limited to, contributory and noncontributory  
188 retirement benefits, Social Security benefits, benefits under a long-term  
189 or short-term disability plan, but not including payments for medical  
190 care, shall not exceed the average weekly wage paid to such eligible  
191 individual. An eligible individual receiving benefits pursuant to this  
192 subsection shall not be entitled to benefits pursuant to subsection (b) of  
193 section 31-308 or section 31-308a.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2023	31-294k

**Statement of Legislative Commissioners:**  
In Section 1(a)(11)(A)(vi) "or" was bracketed for clarity and in Section 1(a)(11)(C)(iv) "at a hospital" was added for clarity and consistency with other provisions of the 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 23 \$	FY 24 \$
Various State Agencies	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect	FY 23 \$	FY 24 \$
Various Municipalities	STATE MANDATE <sup>1</sup> - Potential Cost	See Below	See Below

**Explanation**

The bill results in a potential cost to the state and various municipalities to the extent that an employee applies for Worker's Compensation benefits and meets the condition of the bill.

For reference, this bill expands eligibility for workers' compensation benefits for post-traumatic stress injuries (PTSI) to cover all employees covered by the workers' compensation law. Current law generally limits eligibility for PTSI benefits to certain first responders (e.g., police officers, firefighters, emergency medical service personnel, and emergency 9-1-1 dispatchers) who are diagnosed with PTSI as a direct result of certain qualifying events that occur in the line of duty. The bill

<sup>1</sup> 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.



allows any employee covered by workers' compensation law to qualify for the benefits if the same qualifying events occur in the course of the employee's employment.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sSB 321*****AN ACT EXPANDING WORKERS' COMPENSATION COVERAGE FOR POST-TRAUMATIC STRESS INJURIES FOR ALL EMPLOYEES.*****SUMMARY**

Starting on January 1, 2023, this bill expands eligibility for workers' compensation benefits for post-traumatic stress injuries (PTSI) to cover all employees covered by the workers' compensation law.

Current law generally limits eligibility for PTSI benefits to certain first responders (e.g., police officers, firefighters, emergency medical service personnel, and emergency 9-1-1 dispatchers) who are diagnosed with PTSI as a direct result of certain qualifying events (e.g., witnessing someone's death) that occur in the line of duty. The bill allows any employee covered by workers' compensation law to qualify for the benefits if the same qualifying events occur in the course of the employee's employment. The PTSI benefits provided to them are subject to the same procedures and limitations that currently apply to the PTSI benefits for first responders.

EFFECTIVE DATE: January 1, 2023

**QUALIFYING EVENTS**

Under current law, certain first responders are eligible for workers' compensation PTSI benefits if a mental health professional examines them and diagnoses PTSI as a direct result of a qualifying event in the line of duty. Beginning January 1, 2023, the bill extends these same eligibility requirements to all employees covered by the workers' compensation law. Thus, their PTSI is compensable with workers' compensation benefits if a mental health professional examines them and diagnoses PTSI as a direct result of an event that occurs in their

course of employment in which they:

1. view a deceased minor;
2. witness (a) someone’s death or an incident involving someone’s death, (b) an injury to someone who subsequently dies before or upon admission to a hospital as a result of the injury and not any other intervening cause, or (c) a traumatic physical injury that results in the loss of a vital body part or a vital body function that results in the victim’s permanent disfigurement; or
3. carry, or have physical contact with and treat, an injured person who subsequently dies before or upon admission to a hospital as a result of the injury and not any other intervening cause.

**PTSI BENEFITS AND PROCEDURES**

The PTSI benefits provided to all employees under the bill are subject to the same limitations and procedures that current law applies to the benefits for first responders. Among other things, this (1) caps the benefits’ duration at 52 weeks; (2) prohibits the benefits from being awarded more than four years after the qualifying event; and (3) requires that employers contest a claim for PTSI benefits through a process that is generally similar to the one used for contesting other workers’ compensation claims, although with different deadlines.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 13 Nay 0 (03/22/2022)