

Committee on Banking and Insurance

CS/CS/SB 376 — Workers' Compensation Benefits for First Responders

by Appropriations Committee; Banking and Insurance Committee; and Senators Book, Young, Taddeo, Montford, Stewart, Rader, Campbell, and Torres

The bill revises the standards for determining compensability of employment-related post-traumatic stress disorder (PTSD) under workers' compensation insurance for first responders, which includes volunteers or employees engaged as law enforcement officers, firefighters, emergency medical technicians, and paramedics. The bill allows first responders that meet certain conditions to access indemnity and medical benefits for PTSD without an accompanying physical injury. Current law provides only medical benefits for a mental or nervous injury without an accompanying physical injury and requires the first responder to incur a compensable physical injury to receive indemnity benefits for a mental or nervous injury. Generally, the bill will increase the likelihood of compensability for workers' compensation indemnity benefits for PTSD.

PTSD is a psychiatric disorder that can occur in persons who have experienced or witnessed a traumatic event such as a natural disaster, a serious accident, a terrorist act, war, combat, rape, or other violent personal assault. A diagnosis of PTSD requires direct or indirect exposure to an upsetting traumatic event. Although estimates vary across occupations and the general population, some studies indicate that first responders and other professionals who are exposed to potentially traumatic events in their workplace are significantly more likely to develop PTSD compared to the general population.

The bill creates an exception to current law to authorize the compensation of indemnity benefits for PTSD, if the first responder:

- Has PTSD that resulted from the course and scope of employment; and
- Is examined and diagnosed with PTSD by an authorized treating psychiatrist of the employer or carrier due to the first responder experiencing one of the following qualifying events relating to minors or others:
 - Seeing for oneself a deceased minor;
 - Witnessing directly the death of a minor;
 - Witnessing directly the injury to a minor who subsequently died prior to, or upon arrival at a hospital emergency department, participating in the physical treatment of, or manually transporting an injured minor who subsequently died before or upon arrival at a hospital emergency department;
 - Seeing for oneself a decedent who died due to grievous bodily harm of a nature that shocks the conscience;
 - Witnessing directly a death, including suicide, due to grievous bodily harm; or homicide, including murder, mass killings, manslaughter, self-defense, misadventure, and negligence;
 - Witnessing directly an injury that results in death, if the person suffered grievous bodily harm that shocks the conscience; or

- Participating in the physical treatment of an injury, including attempted suicide, or manually transporting an injured person who suffered grievous bodily harm, if the injured person subsequently died prior to or upon arrival at a hospital emergency department.

The PTSD must be demonstrated by clear and convincing evidence. Medical and indemnity benefits for a first responder's PTSD are due regardless of whether the first responder incurred a physical injury, and the following provisions do not apply:

- Apportionment due to a preexisting PTSD;
- The one percent limitation on permanent psychiatric impairment benefits; or
- Any limitation on temporary benefits under s. 440.093, F.S.

The first responder must file the notice of injury with their employer or carrier within 90 days of the qualifying event, described above, or manifestation of the PTSD. However, the claim is barred if it is not filed within 52 weeks of the qualifying event.

The bill requires an employing agency of a first responder to provide educational training relating to mental health awareness, prevention, mitigation, and treatment.

State and local governments may incur additional costs as a result of the implementation of this bill. The National Council on Compensation Insurance estimates the fiscal impact of the bill on Florida's workers' compensation system is approximately 0.2 percent, or approximately \$7 million.

If approved by the Governor, these provisions take effect October 1, 2018.

Vote: Senate 33-0; House 114-0