

SENATE BILL REPORT

SB 6214

As Reported by Senate Committee On:
Labor & Commerce, January 24, 2018

Title: An act relating to industrial insurance coverage for posttraumatic stress disorders of members of the law enforcement officers' and firefighters' retirement systems.

Brief Description: Allowing industrial insurance coverage for posttraumatic stress disorders of law enforcement and firefighters. [**Revised for 1st Substitute:** Allowing industrial insurance coverage for posttraumatic stress disorders affecting law enforcement officers and firefighters.]

Sponsors: Senators Conway, Hobbs, Keiser, Van De Wege, Palumbo, Hasegawa, Rolfes, Ranker, Mullet, Saldaña, Kuderer and Wellman.

Brief History:

Committee Activity: Labor & Commerce: 1/15/18, 1/17/18, 1/24/18 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Exempts certain firefighters, emergency medical technicians (EMTs), and law enforcement officers from the L&I rule that claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease.
- Provides a prima facie rebuttable presumption that post-traumatic stress disorder (PTSD) is an occupational disease for these firefighters, EMTs, and law enforcement officers.
- Excludes an occupational disease of PTSD if the disorder is directly related to disciplinary action, work evaluation, job transfer, layoff, demotion, termination taken in good faith by an employer.
- Requires that for the presumption to apply, the PTSD must develop after the individual has served at least ten years.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 6214 be substituted therefor, and the substitute bill do pass.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Keiser, Chair; Hasegawa, Vice Chair; Conway, Kuderer and Saldaña.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun, King and Wilson.

Staff: Susan Jones (786-7404)

Background: Under the state's industrial insurance laws, a worker who, in the course of employment, is injured or suffers disability from an occupational disease is entitled to certain benefits. An occupational disease is one that arises naturally and proximately out of employment.

The law provides that the Department of Labor and Industries (L&I) must adopt a rule that claims based on mental conditions or mental disabilities caused by stress are specifically excluded from the definition of an occupational disease. The L&I rule provides that these stress-caused mental conditions or disabilities claims do not fall within the definition of an occupational disease. Examples in the rule of mental conditions or mental disabilities caused by stress that do not fall within occupational disease include those conditions and disabilities resulting from:

- change of employment duties;
- conflicts with a supervisor;
- actual or perceived threat of loss of a job, demotion, or disciplinary action;
- relationships with supervisors, coworkers, or the public;
- specific or general job dissatisfaction;
- work load pressures;
- subjective perceptions of employment conditions or environment;
- loss of job or demotion for whatever reason;
- fear of exposure to chemicals, radiation biohazards, or other perceived hazards;
- objective or subjective stresses of employment;
- personnel decisions; or
- actual, perceived, or anticipated financial reversals or difficulties occurring to the businesses of self-employed individuals or corporate officers.

Under this rule, stress resulting from exposure to a single traumatic event, such as actual or threatened death, actual or threatened physical assault, actual or threatened sexual assault, and life-threatening traumatic injury, may be considered an industrial injury. These exposures must occur in one of the following ways:

- directly experiencing the event;
- witnessing, in person, the event as it occurred to others; or
- extreme exposure to aversive details of the event.

Repeated exposure to traumatic events, none of which are a single traumatic event is not an industrial injury or an occupational disease. A single traumatic event that occurs within a series of exposures may be considered an industrial injury.

The LEOFF provides payment of death, disability, and retirement benefits to law enforcement officers and firefighters. The term law enforcement officer generally includes full-time commissioned county sheriffs, deputy sheriffs, and city police. The term firefighter

generally includes full-time city and county firefighters, city and county firefighter supervisory personnel, and full-time city and county emergency medical technicians.

Summary of Bill (First Substitute): The L&I rule that claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease does not apply to occupational disease claims resulting from PTSD of certain firefighters, EMTs, and law enforcement officers. As a condition to the exemption, individuals hired after the effective date must submit to a psychological exam that rules out PTSD, except when the employer does not provide the exam. An occupational disease of PTSD does not apply if the disorder is directly related to disciplinary action, work evaluation, job transfer, layoff, demotion, termination taken in good faith by an employer.

A prima facie rebuttable presumption exist that PTSD is an occupational disease for those firefighters, EMTs, and law enforcement officers. For the presumption to apply, the PTSD must develop after the individual has served at least ten years. If the employer does not provide a psychological exam for individuals hired after the effective date, the presumption applies.

PTSD means a disorder that meets the diagnostic criteria for post-traumatic stress specified by the American Psychiatric Association in the *Diagnostic and Statistics Manual of Mental Disorders, Fifth Edition*, or in a later edition as adopted L&I rule.

EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):

- Adds firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over 50 such firefighters, to the individuals exempt from the L&I rule regarding stress and to the presumption.
- Adds a condition to the exemption that individuals hired after the effective date must submit to a psychological exam that rules out PTSD, except when the employer does not provide the exam.
- Excludes an occupational disease of PTSD if the disorder is directly related to disciplinary action, work evaluation, job transfer, layoff, demotion, termination taken in good faith by an employer.
- Requires that for the presumption to apply, the PTSD must develop after the individual has served at least ten years.
- Provided that the presumption applies if the employer does not provide a psychological exam.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The law of Washington State is that firefighters and law enforcement cannot file a claim for PTSD even from repeated exposure to terrible scenes that we know they are suffering from. The American Psychological and Statistics Manual specifically recognizes those people as susceptible to this from repeated exposure. There are prevention programs for firefighters. This is not a matter of if this will happen, but when. Ninety percent of untreated PTSD are going to turn to substance abuse. When do we start giving them help? It is not cost prohibitive because if one family member is sick, the whole family is sick. Science is here.

CON: We deeply care about county employees. It is tough to afford continued new input into the public safety system. There are 13 counties that do not have full-time law enforcement coverage. We have been trying to get additional resources from the Legislature. This is a new input into the cost of the criminal justice system. When there is a new cost, something else has to go away.

These diseases are already covered. The presumption has only happened when there is strong medical evidence. Prior presumptions came after three studies. There should be a group empaneled at L&I to further study the issue.

OTHER: We support many standards to cover PTSD. We are concerned about the presumptive nature. The Legislature should take a deliberative and cautious approach the this issue. These are heavy policy choices.

Persons Testifying: PRO: Michael White, Washington Council of Firefighters; Bud Sizemore, Washington Council of Police & Sheriffs; Sean Riley, Safe Call Now.

CON: Eric Johnson, Washington State Association of Counties.

OTHER: Logan Bahr, Association of Washington Cities; Chris Tefft, Washington Self Insurers' Association; Bob Battles, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: No one.