



Senate

General Assembly

File No. 446

January Session, 2021

Senate Bill No. 660

Senate, April 14, 2021

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 bill ought to pass.

AN ACT EXPANDING WORKERS' COMPENSATION BENEFITS FOR CERTAIN MENTAL OR EMOTIONAL IMPAIRMENTS SUFFERED BY HEALTH CARE PROVIDERS IN CONNECTION WITH COVID-19.

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

1 Section 1. Subdivision (16) of section 31-275 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (16) (A) "Personal injury" or "injury" includes, in addition to
5 accidental injury that may be definitely located as to the time when and
6 the place where the accident occurred, an injury to an employee that is
7 causally connected with the employee's employment and is the direct
8 result of repetitive trauma or repetitive acts incident to such
9 employment, and occupational disease.

10 (B) "Personal injury" or "injury" shall not be construed to include:

11 (i) An injury to an employee that results from the employee's
12 voluntary participation in any activity the major purpose of which is
13 social or recreational, including, but not limited to, athletic events,

14 parties and picnics, whether or not the employer pays some or all of the
15 cost of such activity;

16 (ii) A mental or emotional impairment, unless such impairment (I)
17 arises from a physical injury or occupational disease, (II) in the case of a
18 police officer of the Division of State Police within the Department of
19 Emergency Services and Public Protection, an organized local police
20 department or a municipal constabulary, arises from such police
21 officer's use of deadly force or subjection to deadly force in the line of
22 duty, regardless of whether such police officer is physically injured,
23 provided such police officer is the subject of an attempt by another
24 person to cause such police officer serious physical injury or death
25 through the use of deadly force, and such police officer reasonably
26 believes such police officer to be the subject of such an attempt, or (III)
27 in the case of [a police officer, parole officer or firefighter] an eligible
28 individual as defined in section 31-294k, as amended by this act, is a
29 diagnosis of post-traumatic stress [disorder] injury as defined in section
30 31-294k, as amended by this act, that meets all the requirements of
31 section 31-294k, as amended by this act. As used in this clause, "in the
32 line of duty" means any action that a police officer is obligated or
33 authorized by law, rule, regulation or written condition of employment
34 service to perform, or for which the police officer or firefighter is
35 compensated by the public entity such officer serves;

36 (iii) A mental or emotional impairment that results from a personnel
37 action, including, but not limited to, a transfer, promotion, demotion or
38 termination; or

39 (iv) Notwithstanding the provisions of subparagraph (B)(i) of this
40 subdivision, "personal injury" or "injury" includes injuries to employees
41 of local or regional boards of education resulting from participation in a
42 school-sponsored activity but does not include any injury incurred
43 while going to or from such activity. As used in this clause, "school-
44 sponsored activity" means any activity sponsored, recognized or
45 authorized by a board of education and includes activities conducted on
46 or off school property and "participation" means acting as a chaperone,

47 advisor, supervisor or instructor at the request of an administrator with
48 supervisory authority over the employee.

49 Sec. 2. Section 31-294k of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective from passage*):

51 (a) As used in this section:

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

56 (2) "Eligible individual" means a police officer, firefighter, emergency
57 medical services personnel, Department of Correction employee,
58 telecommunicator or health care provider;

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

61 ~~[(1)]~~ (4) "Firefighter" has the same meaning as provided in section 7-
62 313g;

63 (5) "Health care provider" means a person employed at a doctor's
64 office, hospital, health care center, clinic, medical school, local health
65 department or agency, nursing facility, retirement facility, nursing
66 home, group home, home health care provider, any facility that
67 performs laboratory or medical testing, pharmacy or any similar
68 institution, or a person employed to provide personal care assistance, as
69 defined in section 17b-706;

70 ~~[(2)]~~ (6) "In the line of duty" means any action that [a police officer,
71 parole officer or firefighter] an eligible individual is obligated or
72 authorized by law, rule, regulation or written condition of employment
73 service to perform, or for which the [officer or firefighter] eligible
74 individual is compensated by the public entity such [officer or
75 firefighter] individual serves, except that, in the case of a volunteer
76 firefighter, such action or service constitutes fire duties, as defined in

77 subsection (b) of section 7-314b;

78 [(3)] (7) "Mental health professional" means a board-certified
79 psychiatrist or a psychologist licensed pursuant to chapter 383, who has
80 experience diagnosing and treating post-traumatic stress [disorder]
81 injury;

82 [(4)] (8) "Parole officer" means an employee of the Department of
83 Correction who supervises inmates in the community after their release
84 from prison on parole or under another prison release program;

85 [(5)] (9) "Police officer" has the same meaning as provided in section
86 7-294a, except that "police officer" does not include an officer of a law
87 enforcement unit of the Mashantucket Pequot Tribe or the Mohegan
88 Tribe of Indians of Connecticut;

89 [(6)] "Post-traumatic stress disorder" (10) "Post-traumatic stress
90 injury" means [a disorder] an injury that meets the diagnostic criteria for
91 post-traumatic stress disorder as specified in the most recent edition of
92 the American Psychiatric Association's "Diagnostic and Statistical
93 Manual of Mental Disorders"; [and]

94 [(7)] (11) "Qualifying event" means: [an]

95 (A) An event occurring in the line of duty on or after July 1, 2019, in
96 which a police officer, parole officer, [or] firefighter, emergency medical
97 services personnel, Department of Correction employee or
98 telecommunicator:

99 [(A)] (i) Views a deceased minor;

100 [(B)] (ii) Witnesses the death of a person or an incident involving the
101 death of a person;

102 [(C)] (iii) Witnesses an injury to a person who subsequently dies
103 before or upon admission at a hospital as a result of the injury and not
104 as a result of any other intervening cause;

105 [(D)] (iv) Has physical contact with and treats an injured person who

106 subsequently dies before or upon admission at a hospital as a result of
107 the injury and not as a result of any other intervening cause;

108 [(E)] (v) Carries an injured person who subsequently dies before or
109 upon admission at a hospital as a result of the injury and not as a result
110 of any other intervening cause; or

111 [(F)] (vi) Witnesses a traumatic physical injury that results in the loss
112 of a vital body part or a vital body function that results in permanent
113 disfigurement of the victim, [.] or

114 (B) An event arising out of and in the course of employment on or
115 after March 10, 2020, in which an eligible individual who is a health care
116 provider is engaged in activities substantially dedicated to mitigating or
117 responding to the public health and civil preparedness emergencies
118 declared by the Governor on March 10, 2020, or any extension of such
119 emergency declarations, and:

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

122 (ii) Witnesses an injury to a person who subsequently dies as a result
123 of COVID-19 or due to symptoms that were later diagnosed as COVID-
124 19;

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

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

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

133 (13) "Witnesses" means, for an eligible individual who is a
134 telecommunicator, hears by telephone or radio.

135 (b) A diagnosis of post-traumatic stress [disorder] injury is
136 compensable as a personal injury as described in subparagraph
137 (B)(ii)(III) of subdivision (16) of section 31-275, as amended by this act,
138 if a mental health professional examines [a police officer, parole officer
139 or firefighter] the eligible individual and diagnoses the [officer or
140 firefighter] individual with a post-traumatic stress [disorder] injury as a
141 direct result of a qualifying event, provided (1) the post-traumatic stress
142 [disorder] injury resulted from [the officer or firefighter] (A) the eligible
143 individual acting in the line of duty if such individual is a police officer,
144 firefighter, emergency medical services personnel, Department of
145 Correction employee or telecommunicator and, in the case of a
146 firefighter, such firefighter complied with Federal Occupational Safety
147 and Health Act standards adopted pursuant to 29 CFR 1910.134 and 29
148 CFR 1910.156, or (B) the eligible individual acting the course of
149 employment if such individual is a health care provider, (2) a qualifying
150 event was a substantial factor in causing the [disorder, (3) such
151 qualifying event, and not another event or source of stress, was the
152 primary cause of the post-traumatic stress disorder] injury, and [(4)] (3)
153 the post-traumatic stress [disorder] injury did not result from any
154 disciplinary action, work evaluation, job transfer, layoff, demotion,
155 promotion, termination, retirement or similar action of the [officer or
156 firefighter] eligible individual. Any such mental health professional
157 shall comply with any workers' compensation guidelines for approved
158 medical providers, including, but not limited to, guidelines on release
159 of past or contemporaneous medical records.

160 (c) Whenever liability to pay compensation is contested by the
161 employer, the employer shall file with the commissioner, on or before
162 the twenty-eighth day after the employer has received a written notice
163 of claim, a notice in accordance with a form prescribed by the
164 chairperson of the Workers' Compensation Commission stating that the
165 right to compensation is contested, the name of the claimant, the name
166 of the employer, the date of the alleged injury and the specific grounds
167 on which the right to compensation is contested. The employer shall
168 send a copy of the notice to the employee in accordance with section 31-
169 321. If the employer or the employer's legal representative fails to file

170 the notice contesting liability on or before the twenty-eighth day after
171 receiving the written notice of claim, the employer shall commence
172 payment of compensation for such injury on or before the twenty-eighth
173 day after receiving the written notice of claim, but the employer may
174 contest the employee's right to receive compensation on any grounds or
175 the extent of the employee's disability within one hundred eighty days
176 from the receipt of the written notice of claim and any benefits paid
177 during the one hundred eighty days shall be considered payments
178 without prejudice, provided the employer shall not be required to
179 commence payment of compensation when the written notice of claim
180 has not been properly served in accordance with section 31-321 or when
181 the written notice of claim fails to include a warning that the employer
182 (1) if the employer has commenced payment for the alleged injury on or
183 before the twenty-eighth day after receiving a written notice of claim,
184 shall be precluded from contesting liability unless a notice contesting
185 liability is filed within one hundred eighty days from the receipt of the
186 written notice of claim, and (2) shall be conclusively presumed to have
187 accepted the compensability of the alleged injury unless the employer
188 either files a notice contesting liability on or before the twenty-eighth
189 day after receiving a written notice of claim or commences payment for
190 the alleged injury on or before such twenty-eighth day. An employer
191 shall be entitled, if the employer prevails, to reimbursement from the
192 claimant of any compensation paid by the employer on and after the
193 date the commissioner receives written notice from the employer or the
194 employer's legal representative, in accordance with the form prescribed
195 by the chairperson of the Workers' Compensation Commission, stating
196 that the right to compensation is contested. Notwithstanding the
197 provisions of this subsection, an employer who fails to contest liability
198 for an alleged injury on or before the twenty-eighth day after receiving
199 a written notice of claim and who fails to commence payment for the
200 alleged injury on or before such twenty-eighth day, shall be conclusively
201 presumed to have accepted the compensability of the alleged injury. If
202 an employer has opted to post an address of where notice of a claim for
203 compensation by an employee shall be sent, as described in subsection
204 (a) of section 31-294c, the twenty-eight-day period set forth in this

205 subsection shall begin on the date when such employer receives written
206 notice of a claim for compensation at such posted address.

207 (d) Notwithstanding any provision of this chapter, workers'
208 compensation benefits for any [police officer, parole officer or
209 firefighter] eligible individual for a personal injury described in
210 subparagraph (B)(ii)(III) of subdivision (16) of section 31-275, as
211 amended by this act, shall (1) include any combination of medical
212 treatment prescribed by a board-certified psychiatrist or a licensed
213 psychologist, temporary total incapacity benefits under section 31-307
214 and temporary partial incapacity benefits under subsection (a) of section
215 31-308, and (2) be provided for a maximum of fifty-two weeks from the
216 date of diagnosis. No medical treatment, temporary total incapacity
217 benefits under section 31-307 or temporary partial incapacity benefits
218 under subsection (a) of section 31-308 shall be awarded beyond four
219 years from the date of the qualifying event that formed the basis for the
220 personal injury. The weekly benefits received by an [officer or a
221 firefighter] eligible individual pursuant to section 31-307 or subsection
222 (a) of section 31-308, when combined with other benefits including, but
223 not limited to, contributory and noncontributory retirement benefits,
224 Social Security benefits, benefits under a long-term or short-term
225 disability plan, but not including payments for medical care, shall not
226 exceed the average weekly wage paid to such [officer or firefighter]
227 eligible individual. An [officer or firefighter] eligible individual
228 receiving benefits pursuant to this subsection shall not be entitled to
229 benefits pursuant to subsection (b) of section 31-308 or section 31-308a.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	31-275(16)
Sec. 2	<i>from passage</i>	31-294k

LAB *Joint Favorable*

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 22 \$	FY 23 \$
Various State Agencies	GF - Potential Cost	See Below	See Below
Correction, Dept.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 22 \$	FY 23 \$
Various Municipalities	STATE MANDATE ¹ - Potential Cost	See Below	See Below

Explanation

This bill results in a potential cost to the Department of Corrections (DOC) to the extent that DOC employees apply for Workers' Compensation benefits and meet the conditions of the bill. For reference, there are 6,000 current DOC employees, and this bill expands Workers' Compensation benefits to all DOC employees suffering from post-traumatic stress injuries (PTSI).

This bill also results in a potential cost to other various state agencies and various municipalities who employ EMS personnel,

¹ 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.

telecommunicators, and health care providers to the extent that these employees apply for Workers' Compensation benefits due to PTSI and COVID-19 related conditions and meet the other conditions of the bill.

This bill also makes technical and conforming changes that have no fiscal impact.

The Out Years

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

OLR Bill Analysis**SB 660*****AN ACT EXPANDING WORKERS' COMPENSATION BENEFITS FOR CERTAIN MENTAL OR EMOTIONAL IMPAIRMENTS SUFFERED BY HEALTH CARE PROVIDERS IN CONNECTION WITH COVID-19.*****SUMMARY**

This bill expands eligibility for workers' compensation benefits for post-traumatic stress injuries (PTSI) to cover (1) emergency medical services (EMS) personnel; (2) all Department of Correction (DOC) employees; (3) telecommunicators (i.e., 9-1-1 emergency dispatchers); and (4) under certain circumstances related to COVID-19, health care providers. The bill also changes the terminology used in the underlying law by replacing "post-traumatic stress disorder" (PTSD) with "post-traumatic stress injury."

Current law provides workers' compensation PTSD benefits to police officers, DOC-employed parole officers, and firefighters diagnosed with PTSD as a direct result of certain qualifying events (e.g., witnessing someone's death) that occur in the line of duty. The bill allows EMS personnel, DOC employees, and emergency dispatchers to qualify for benefits through the same qualifying events, although the dispatchers may do so by hearing them. Qualifying events for health care providers under the bill are the same types of events, but they must have occurred due to, or as a result of, COVID-19.

The PTSI benefits provided under the bill are subject to the same limitations and procedures that current law applies to the benefits for firefighters, police, and parole officers. The bill also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

EMS PERSONNEL, TELECOMMUNICATORS, AND HEALTH CARE PROVIDERS

Under the bill, “emergency medical services personnel” are certified emergency medical responders, emergency medical technicians, advanced emergency medical technicians, EMS instructors, and licensed paramedics.

“Telecommunicators” are individuals engaged in or employed by a public or private safety agency as telecommunications operators (1) whose primary responsibility is receiving or processing 9-1-1 calls for emergency assistance or dispatching emergency services provided by public safety agencies and (2) who receive or disseminate information relative to emergency assistance by telephone or radio.

“Health care providers” are people employed at a physician’s office, hospital, health care center, clinic, medical school, local health department or agency, nursing or retirement facility, nursing home, group home, home health care provider, facility that performs laboratory or medical testing, or pharmacy or any similar institution. They also include people who provide personal care assistance (PCAs) under a state-funded program, such as the Connecticut Home Care Program for Elders.

(Existing workers’ compensation law, unchanged by the bill, only covers people who work in or about a private dwelling if they are regularly employed by the dwelling’s owner or occupier for more than 26 hours per week (CGS § 31-275(9)(B)(iv)). It is unclear if this 26-hour work threshold would also apply to PCAs under the bill.)

QUALIFYING EVENTS

Under current law, police officers, parole officers, and firefighters are eligible for workers’ compensation PTSD benefits if a mental health professional examines them and diagnoses PTSD as a direct result of a qualifying event in the line of duty.

For EMS Personnel, DOC Employees, and Emergency Dispatchers

The bill extends current law's eligibility requirements to EMS personnel, DOC employees, and emergency dispatchers. Thus, their PTSD diagnosis is compensable with workers' compensation benefits if a mental health professional examines them and diagnoses PTSD as a direct result of an event that occurs in the line of duty on or after July 1, 2019, and in which they:

1. view a deceased minor;
2. witness (a) a person's death or an incident involving a person's death, (b) an injury to a person 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 at a hospital as a result of the injury and not any other intervening cause.

For emergency dispatchers, however, witnessing a "qualifying event" is hearing, by telephone or radio (1) someone's death or an incident involving someone's death; (2) an injury to someone who subsequently dies before or upon admission to a hospital because of the injury; or (3) 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.

For Health Care Providers

For health care providers under the bill, a qualifying event is an event arising in and out of the course of employment on or after March 10, 2020, in which the provider was engaged in activities substantially dedicated to mitigating or responding to the COVID-19 emergency and:

1. witnessed the death of a person due to COVID-19;
2. witnessed an injury to a person who subsequently died as a result

of COVID-19;

- 3. had physical contact with and treated or provided care for a person who subsequently died as a result of COVID-19; or
- 4. witnessed a traumatic physical injury that resulted in someone’s loss of a vital body function due to COVID-19.

PTSI BENEFITS AND PROCEDURE

Under the bill, the PTSI benefits provided to EMS personnel, DOC employees, emergency dispatchers, and health care providers are subject to the same limitations and procedures that current law applies to the benefits for firefighters, police, and parole officers. Among other things, this (1) caps the benefits’ duration at 52 weeks; (2) prohibits the benefits from being awarded beyond 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.

BACKGROUND

Related Bills

sHB 6595 (§§ 5-6) and sSB 1002 (§§ 5-6), both reported favorably by the Labor and Public Employees Committee, contain identical provisions to this bill.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 13 Nay 0 (03/25/2021)