



Colorado Legislative Council Staff

Bill 1

FISCAL NOTE

FISCAL IMPACT: [X] State [X] Local [] Statutory Public Entity [] Conditional [] No Fiscal Impact

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Prime Sponsor(s):

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Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems Bill Request

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BILLTOPIC: WORKERS' COMPENSATION FOR PTSD

Table with 3 columns: Fiscal Impact Summary, FY 2016-2017, FY 2017-2018. Rows include State Revenue, State Expenditures, TABOR Impact, FTE Position Change, and Future Year Impacts.

Summary of Legislation

Under current law, post-traumatic stress disorder (PTSD) is not covered by workers' compensation insurance for peace officers, emergency medical service providers, and firefighters (public safety professionals) unless the PTSD was caused by an event outside of the employee's typical job responsibilities.

Under the bill, eligible public safety professionals must file a workers' compensation claim within 24 months of the event. For the claim to be considered compensable, the healthcare provider must submit specific information to the employer or insurer.

Under the bill, a dependent of an public safety professional entitled to workers' compensation benefits may file a claim if the covered employee commits suicide as a result of PTSD. In this situation, the Chief Administrative Law Judge employed by the Department of Personnel (DPA) must randomly select a panel of volunteer licensed mental health professionals,

as specified in the bill. Within 120 days of the claim's filing, the panel will issue a written decision determining whether the suicide was a result of PTSD. The panel may subpoena records, witnesses, and testimony as deemed necessary. The decision is final and not subject to appeal.

The bill permits an employer, insurer, or the majority of mental health panel members to petition a district court for an in camera hearing in order to receive additional information beyond the scope of what is required to consider a claim. The hearing must occur within 30 days of the petition filing. The court may also require and review medical records prior to and during the in camera hearing. The court must rule on the petition within 10 calendar days after the closing of evidence. Counsel of record may share released information with the judge and the licensed health care providers. The decision of the court must reference the released information.

Background

Worker's compensation for state employees is self funded, with state agencies paying into the Workers' Compensation Fund based on risk and actuarial analyses. The Workers' Compensation Fund is managed by the Division of Risk Management in the DPA and employee claims are processed by a third-party administrator. The Workers' Compensation Fund currently insures more than 2,000 peace officers and firefighters. State institutions of higher education, local governments, special districts, and other public jurisdictions may choose to self fund their workers' compensation obligations or obtain private workers' compensation insurance.

State Expenditures

The bill will increase expenditures and workload for certain state agencies, as discussed below.

Department of Personnel and Administration. The DPA will have increased costs to process and pay for workers' compensation claims for state employees under the bill. The bill creates a new condition for workers' compensation claims to be filed for those suffering from PTSD as a result of a trauma experienced while on the job. While the exact number of cases and costs may vary, the following costs may be incurred by the DPA:

- ***Medical claims costs.*** Medical costs are anticipated to average \$10,000 per claim for medication and counseling expenses;
- ***Death benefit claims by dependents.*** The cost per death benefit payment is anticipated to be \$1.7 million;
- ***Legal services.*** The bill allows for claims to be challenged in district courts. Legal service costs are dependent on the number of claims challenged, and cannot be estimated at this time; and
- ***Mental health panel per diems.*** The bill requires the Chief Administrative Law Judge in Office of Administrative Courts within the DPA to convene a panel of three volunteer licensed mental health professionals as needed. The DPA maintains similar programs for other fields and provides per diem to the volunteers.

At this time, the number of potential PTSD-related claims by state public safety employees is not known. As claims are incurred, assessments on state agencies to fund the Workers' Compensation Fund likely will increase. If a significant number of claims are filed in the first year, additional appropriations may be required through the annual budget process to ensure solvency of the Workers' Compensation Fund.

Department of Labor and Employment. The department may need to conduct rulemaking to expand workers' compensation eligibility materials and communicate about changes to state law under the bill. This workload is expected to be minimal and does not require new appropriations.

Institutions of higher education. State institutions of higher education employ peace officers and generally self fund their workers' compensation obligations. If eligible peace officers file PTSD claims, the university systems may experience an increase in insurance premiums. Given the unknown number of individuals who may file a PTSD claim and be approved, the potential fiscal impact of the bill cannot be estimated at this time.

Judicial Branch. The bill permits employers, insurers, or mental health panel members to petition a district court for a hearing. As a result, the Judicial Branch may see an increase in workload to the courts. However, the fiscal note assumes any workload increase can be absorbed within existing resources and no new appropriations are required.

Other state agencies. Various state agencies that employ eligible public safety professionals may experience increased costs under the bill. For example, the Department of Natural Resources (DNR) employs about 360 peace officers. Although the potential number of PTSD claims is not known at this time, the bill will increase costs for the DNR, the Department of Human Services, and other state agencies that employ public safety professional through increased risk management assessments to the DPA.

Local Government Impact

The bill will likely increase expenditures for local governments that employ covered public safety professionals, as they will be liable for any costs associated with increased workers' compensation disability claims resulting from PTSD. Local governments will likely experience an increase in workers compensation claims, which will result in increased insurance premiums and court-related costs.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Personnel	Labor	Military and Veterans Affairs
Law	Public Safety	Corrections
Natural Resources	Higher Education	Judicial
Revenue	Counties	Municipalities
Special Districts	Sheriffs	