

SENATE BILL NO. 107

BY SENATORS GATTI, BISHOP, CARTER AND JOHNS AND REPRESENTATIVES
STAGNI AND HORTON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 40:1374 and to enact R.S. 23:1036.1 and R.S. 33:2581.2, relative to financial security for certain public employees; to provide for workers' compensation; to provide for certain fire employees; to provide for certain volunteer firefighters; to provide for certain emergency medical services personnel; to provide for certain employees of police departments; to provide for certain employees of state police; to provide for posttraumatic stress injury as a compensable injury when the injury is suffered by certain employees; to provide for definitions; to provide for legal presumptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:1036.1 is hereby enacted to read as follows:

§1036.1. Volunteer firefighters; coverage for posttraumatic stress injury; presumption of compensability

A. Any workers' compensation policy which provides coverage for a volunteer member of a fire company, pursuant to R.S. 23:1036, shall include coverage for posttraumatic stress injury.

B. For purposes of this Section, the following definitions shall apply:

(1) "Posttraumatic stress injury" means those injuries which are defined

1 as "posttraumatic stress disorder" by the most recently published edition of the
2 Diagnostic and Statistical Manual of Mental Disorders by the American
3 Psychiatric Association caused by an event occurring in the course and scope
4 of employment.

5 (2) "Psychiatrist" shall have the same meaning as it is defined pursuant
6 to R.S. 23:1371.1.

7 (3) "Psychologist" shall have the same meaning as it is defined pursuant
8 to R.S. 23:1371.1.

9 (4) "Volunteer member" shall have the same meaning as it is defined
10 pursuant to R.S. 23:1036.

11 (5) "Volunteer service" means that service performed by a volunteer
12 member, for one or more fire companies, who is entitled to workers'
13 compensation benefits pursuant to R.S. 23:1036.

14 C.(1) Any volunteer member who is diagnosed by a psychiatrist or
15 psychologist with posttraumatic stress injury, either during his period of
16 voluntary service or thereafter, shall be presumed, prima facie, to have a
17 disease or infirmity connected with his volunteer service.

18 (2) Once diagnosed with posttraumatic stress injury as provided for in
19 Paragraph (1) of this Subsection, the volunteer member affected or his
20 survivors shall be entitled to all rights and benefits as granted by state laws to
21 one suffering an occupational disease and is entitled as service connected in the
22 line of duty, regardless of whether he is engaged in volunteer service at the time
23 of diagnosis.

24 D. A posttraumatic stress injury that arises solely from a legitimate
25 personnel action such as a transfer, promotion, demotion, or termination, is not
26 a compensable injury pursuant to this Chapter.

27 Section 2. R.S. 33:2581.2 is hereby enacted to read as follows:

28 §2581.2. Posttraumatic Stress Injury; presumption of compensability

29 A. Except as provided in Subsection E of this Section, any benefit
30 payable to any emergency medical services personnel, any employee of a police

1 department, or any fire employee for temporary and permanent disability when
2 the employee suffers an injury or disease arising out of and in the course and
3 scope of his employment, shall include coverage for posttraumatic stress injury.

4 B. For purposes of this Section, the following definitions shall apply:

5 (1) "Emergency medical services personnel" shall have the same
6 meaning as it is defined pursuant to R.S. 40:1075.3 so long as the emergency
7 medical services personnel is employed pursuant to this Chapter.

8 (2) "Employee of a police department" shall have the same meaning as
9 it is defined pursuant to R.S. 33:2211.

10 (3) "Fire employee" means any person employed in the fire department
11 of any municipality, parish, or fire protection district that maintains full-time
12 regularly paid fire department employment, regardless of the specific duties of
13 such person within the fire department. "Fire employee" also includes
14 employees of nonprofit corporations under contract with a fire protection
15 district or other political subdivision to provide fire protection services,
16 including operators of the fire-alarm system when such operators are members
17 of the regularly constituted fire department.

18 (4) "Posttraumatic stress injury" means those injuries which are defined
19 as "posttraumatic stress disorder" by the most recently published edition of the
20 Diagnostic and Statistical Manual of Mental Disorders by the American
21 Psychiatric Association caused by an event occurring in the course and scope
22 of employment.

23 (5) "Psychiatrist" shall have the same meaning as it is defined pursuant
24 to R.S. 23:1371.1.

25 (6) "Psychologist" shall have the same meaning as it is defined pursuant
26 to R.S. 23:1371.1.

27 C. Except as provided in Subsection E of this Section:

28 (1) Any emergency medical services personnel, any employee of a police
29 department, any fire employee, or any volunteer fireman who is diagnosed by
30 a psychiatrist or psychologist with posttraumatic stress injury, either during

1 employment in the classified service in the state of Louisiana pursuant to this
 2 Chapter or thereafter, shall be presumed, prima facie, to have a disease or
 3 infirmity connected with his employment.

4 (2) Once diagnosed with posttraumatic stress injury as provided for in
 5 Paragraph (1) of this Subsection, the employee affected or his survivors shall be
 6 entitled to all rights and benefits as granted by state law to one suffering an
 7 occupational disease and who is entitled as service connected in the line of duty,
 8 regardless of whether the employee is employed at the time of diagnosis.

9 D. A posttraumatic stress injury that arises solely from a legitimate
 10 personnel action such as a transfer, promotion, demotion, or termination, is not
 11 a compensable injury pursuant to this Chapter.

12 E. (1) Nothing in this Section shall modify the qualifications necessary
 13 to establish eligibility to receive benefits or the calculation of benefits to be paid
 14 under any Louisiana public pension or retirement system, plan, or fund.

15 (2) In case of a conflict between any provision of Title 11 of the Louisiana
 16 Revised Statutes of 1950, including any provision in Subpart E of Part II of
 17 Chapter 4 of Title 11 of the Louisiana Revised Statutes of 1950, and any
 18 provision of this Section, the provision of Title 11 of the Louisiana Revised
 19 Statutes of 1950 shall control.

20 Section 3. R.S. 40:1374 is hereby amended and reenacted to read as follows:

21 §1374. ~~Worker's~~ **Workers'** compensation law; employees deemed within;
 22 **coverage for posttraumatic stress injury; presumption of**
 23 **compensability**

24 A. Every employee of the division of state police, except the head thereof,
 25 shall be considered an employee of the state within the meaning of the ~~worker's~~
 26 **workers'** compensation law of this state and entitled to the benefits of all the
 27 provisions of that law applicable to state employees.

28 B. **Any workers' compensation policy which provides coverage for an**
 29 **employee of the division of state police, pursuant to this Section, shall include**
 30 **coverage for posttraumatic stress injury.**

1 C. For purposes of this Section, the following definitions shall apply:

2 (1) "Posttraumatic stress injury" means those injuries which are defined
3 as "posttraumatic stress disorder" by the most recently published edition of the
4 Diagnostic and Statistical Manual of Mental Disorders by the American
5 Psychiatric Association caused by an event occurring in the course and scope
6 of employment.

7 (2) "Psychiatrist" shall have the same meaning as it is defined pursuant
8 to R.S. 23:1371.1.

9 (3) "Psychologist" shall have the same meaning as it is defined pursuant
10 to R.S. 23:1371.1.

11 D.(1) Any employee of the division of state police who is diagnosed by a
12 psychiatrist or psychologist with posttraumatic stress injury, either during
13 employment in the classified service in the state of Louisiana pursuant to this
14 Chapter or thereafter, shall be presumed, prima facie, to have a disease or
15 infirmity connected with his employment for purposes of workers'
16 compensation benefits.

17 (2) Once diagnosed with posttraumatic stress injury as provided for in
18 Paragraph (1) of this Subsection, the employee affected or his survivors shall be
19 entitled to all rights and benefits as granted by state workers' compensation law
20 to one suffering an occupational disease and is entitled as service connected in
21 the line of duty, regardless of whether the employee is employed at the time of
22 diagnosis.

23 E.(1) Nothing in this Section shall modify the qualifications necessary
24 to establish eligibility to receive benefits or the calculation of benefits to be paid
25 under any Louisiana public pension or retirement system, plan, or fund.

26 (2) In case of a conflict between any provision of Title 11 of the
27 Louisiana Revised Statutes of 1950, including any provision in Subpart E of
28 Part II of Chapter 4 of Title 11 of the Louisiana Revised Statutes of 1950, and
29 any provision of this Section, the provision of Title 11 of the Louisiana Revised
30 Statutes of 1950 shall control.

1 **F. A posttraumatic stress injury that arises solely from a legitimate**
2 **personnel action such as a transfer, promotion, demotion, or termination, is not**
3 **a compensable injury pursuant to this Chapter.**

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____