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H.B. 308*
133rd General Assembly

Bill Analysis

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Version: As Reported by House Insurance

Primary Sponsor: Rep. Patton

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SUMMARY

- Makes a peace officer, firefighter, or emergency medical worker who is diagnosed with post-traumatic stress disorder (PTSD) eligible to receive compensation and benefits under Ohio's Workers' Compensation Law, regardless of whether the person suffers an accompanying physical injury.
- Prohibits a claimant from receiving compensation or benefits under the Workers' Compensation Law for PTSD with no accompanying physical injury at the same time as the claimant is receiving a disability benefit from a state retirement system.

DETAILED ANALYSIS

Workers' compensation coverage for PTSD

Under the bill, a peace officer, firefighter, or emergency medical worker who is diagnosed with post-traumatic stress disorder (PTSD), received in the course of and arising out of the person's employment as a peace officer, firefighter, or emergency medical worker, may be eligible to receive compensation and benefits under Ohio's Workers' Compensation Law, regardless of whether the PTSD is connected to a compensable physical injury.¹ Currently, an employee is not eligible to receive any compensation or benefits under Ohio Workers' Compensation Law for PTSD unless the PTSD arose from a compensable physical injury incurred by the employee.

* This analysis was prepared before the report of the House Insurance Committee appeared in the House Journal. Note that the legislative history may be incomplete.

¹ R.C. 4123.01(C), with conforming changes in R.C. 4123.01(A), 4123.026, and 4123.46.

Under the bill, a claimant is not entitled to compensation or benefits under the Workers' Compensation Law for PTSD as provided under the bill while the claimant receives a disability benefit or disability retirement, as appropriate, from the Public Employees Retirement System (PERS), the Ohio Police and Fire Pension Fund (OP&F), the School Employees Retirement System (SERS), or the State Highway Patrol Retirement System (SHPRS).²

If a claimant receives compensation or benefits under the Workers' Compensation Law for PTSD without an accompanying physical injury while the claimant receives a disability benefit or disability retirement from a retirement system, the bill allows the Administrator of Workers' Compensation or a self-insuring employer to collect both of the following from the claimant:

1. The amount of compensation or benefits paid to the claimant by the Administrator or the self-insuring employer pursuant to Workers' Compensation Law for the time period the claimant received disability benefits or a disability retirement from the retirement system;
2. Any interest, attorney's fees, and costs the Administrator or the self-insuring employer incurs in collecting that payment.³

On determining that a PERS, OP&F, SERS, or SHPRS member's PTSD without an accompanying physical injury qualifies the member for a disability benefit or disability retirement, the bill requires the appropriate retirement system to notify the Administrator of all of the following: the member's name, that the member's PTSD without accompanying physical injury qualifies the member for a disability benefit or disability retirement, the effective date of the member's disability benefit or disability retirement, and the date on which payments for the disability benefit or disability retirement commence. The bill exempts these reports from current law confidentiality requirements applicable to certain PERS, OP&F, SERS, or SHPRS records.⁴

Background – psychiatric conditions as “injuries”

Other than injuries falling under specific exceptions (self-inflicted injuries or injuries caused by the employee's intoxication), Ohio's Workers' Compensation Law entitles every employee who is injured or contracts an occupational disease to receive compensation, benefits, or both on account of the injury or occupational disease.⁵ Continuing law defines “injury” as any injury received in the course of, and arising out of, the injured employee's employment. Currently, psychiatric conditions generally are excluded from the definition of injury, except where:

² R.C. 4123.87(A).

³ R.C. 4123.87(B).

⁴ R.C. 145.364, 742.391, 3309.402, and 5505.182.

⁵ R.C. 4123.54, not in the bill.

1. The employee's psychiatric conditions have arisen from an injury or occupational disease sustained by that employee; or
2. The employee's psychiatric conditions have arisen from sexual conduct in which the employee was forced to engage or participate by threat of physical harm.⁶

Thus, under current law, an employee is not eligible to receive compensation or benefits under Ohio's Workers' Compensation Law for PTSD unless the PTSD arose from a compensable physical injury incurred by the employee.⁷

Background – PTSD

PTSD is an illness caused by living through or seeing a traumatic event, such as war, a violent crime, or a bad accident. PTSD can cause flashbacks, trouble sleeping, thoughts of hurting oneself or others, angry outbursts, and feelings of worry, guilt, sadness, or loneliness. Signs of PTSD may start soon after a traumatic event or may start or intensify years after the event.⁸

Definitions

Under continuing law, a "peace officer" means any of the following:

1. A sheriff or deputy sheriff;
2. A marshal or deputy marshal;
3. A member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio;
4. A member of a police force employed by a metropolitan housing authority;
5. A member of a police force employed by a regional transit authority;
6. A state university law enforcement officer;
7. An enforcement agent of the Department of Public Safety;
8. An employee of the Department of Taxation to whom investigation powers have been delegated under the Cigarette Tax Law;
9. An employee of the Department of Natural Resources who is a natural resources law enforcement staff officer, a forest-fire investigator, a natural resources officer, or a wildlife officer;

⁶ R.C. 4123.01(C).

⁷ *Armstrong v. Jurgensen Co.*, 136 Ohio St.3d 58, 2013-Ohio-2237.

⁸ National Institute of Mental Health, *Post-Traumatic Stress Disorder*, <https://www.nimh.nih.gov/health/topics/post-traumatic-stress-disorder-ptsd/index.shtml>.

10. A person designated to perform law enforcement duties in a park district or conservancy district or by a park commission;
11. A veterans' home police officer;
12. A special police officer employed by a port authority;
13. A township police constable;
14. A police officer of a township or joint police district;
15. A special police officer employed by a municipal corporation at a municipal airport or certain other municipal air navigation facilities;
16. The House of Representatives Sergeant at Arms, if the person has arrest authority, or an assistant House of Representatives Sergeant at Arms;
17. The Senate Sergeant at Arms or an assistant Senate Sergeant at Arms;
18. Certain Bureau of Criminal Identification and Investigation employees or officers;
19. A state fire marshal law enforcement officer;
20. The Superintendent and troopers of the State Highway Patrol, for specified purposes.⁹

Under continuing law, an "emergency medical worker" means any of the following persons, whether the person is paid or a volunteer, so long as the person is certified under Ohio law:

- A first responder;
- An emergency medical technician-basic;
- An emergency medical technician-intermediate;
- An emergency medical technician-paramedic.¹⁰

HISTORY

| Action | Date |
|------------------------|----------|
| Introduced | 06-28-19 |
| Reported, H. Insurance | --- |

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⁹ R.C. 4123.01(P), by reference to R.C. 2935.01, not in the bill.

¹⁰ R.C. 4123.01(A) and (R).