

WEST VIRGINIA LEGISLATURE

**FISCAL
NOTE**

2025 REGULAR SESSION

Introduced

House Bill 2797

By Delegates Statler and Chiarelli

[Introduced February 21, 2025; referred to the
Committee on Health and Human Resources then
Finance]

1 A BILL to amend and reenact §23-4-1f of the Code of West Virginia, 1931, as amended; relating to
2 who may diagnose post-traumatic stress disorder as a compensable injury or disease
3 under workers compensation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. DISABILITY AND DEATH BENEFITS.

**§23-4-1f. Certain psychiatric injuries and diseases not compensable; definitions;
legislative findings; terms; report required.**

1 (a) Except as provided by this section, for the purposes of this chapter, no alleged injury or
2 disease may be recognized as a compensable injury or disease which was solely caused by
3 nonphysical means and which did not result in any physical injury or disease to the person
4 claiming benefits. Except as otherwise provided in this section, it is the purpose of this section to
5 clarify that so-called mental-mental claims are not compensable under this chapter.

6 (b) For the purposes of this section:

7 (1) "First responder" means a law enforcement officer, firefighter, emergency medical
8 technician, paramedic, and emergency dispatcher;

9 (2) "Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for
10 post-traumatic stress disorder specified by the American Psychiatric Association in the Diagnostic
11 and Statistical Manual of Mental Disorders, fifth edition, or a later edition as adopted by rule of the
12 insurance commissioner; and

13 (3) "Licensed mental health provider" means a licensed psychiatrist, licensed psychologist,
14 licensed professional counselor, licensed marriage and family therapist, certified mental health
15 nurse practitioner, or licensed social worker who:

16 (A) Holds a master's degree or higher;

17 (B) Holds a terminal license within their profession; and

18 (C) Is qualified to treat post-traumatic stress disorder.

19 (4) "Employer" means any entity that controls, consistent with the provisions of West

Virginia law relating to an employment relationship, the paid or volunteer employment of a first responder eligible for benefits under this section.

(c) The Legislature finds that post-traumatic stress disorder is a unique medical condition. Although it may manifest itself as a psychiatric condition that would be otherwise precluded from workers' compensation coverage, post-traumatic stress disorder is an occupational hazard for first responders, similar to members of the military serving in combat. The Legislature further finds that because first responders are required to expose themselves to traumatic events during the course of their employment and thus are at a recognized higher risk of developing post-traumatic stress disorder, and because of the severe nature and debilitating effects of post-traumatic stress disorder, it is the moral obligation of the state to permit coverage to this class of individuals for their work-related disease.

(d)(1) Post-traumatic stress disorder suffered by a first responder may be recognized as a compensable occupational disease under §23-4-1(f) of this code when:

(A) The Employer has elected to provide coverage for post-traumatic stress disorder as an occupational disease; and

(B) A diagnosis has been made by a licensed psychiatrist or certified mental health nurse practitioner that the first responder suffered from post-traumatic stress disorder due to exposure to an event or events that occurred in the course of and resulting from the first responder's paid or volunteer covered employment: *Provided*, That the provisions of this section shall apply only to a post-traumatic stress disorder diagnosis made on or after July 1, 2021, or the first day of the employer's next workers' compensation insurance policy or self-insurance program term for which post-traumatic stress disorder coverage has been purchased or elected, whichever is later.

~~(2) While the diagnosis must be made by a licensed psychiatrist, mental health treatment consistent for a post-traumatic stress disorder diagnosis may be offered by a licensed mental health provider other than the diagnosing psychiatrist~~

While the diagnosis must be made by a licensed psychiatrist or certified mental health

46 nurse practitioner, mental health treatment consistent for a post-traumatic stress disorder
47 diagnosis may be offered by a licensed mental health provider other than the diagnosing
48 psychiatrist or certified mental health nurse practitioner.

49 (3) A diagnosis of post-traumatic stress disorder under this section shall not include
50 consideration of any layoff, termination, disciplinary action, or any similar personnel-related action
51 taken in good faith by an employer.

52 (4) Benefits for a post-traumatic stress disorder diagnosis made under this section are
53 contingent upon the employer electing to provide coverage for post-traumatic stress disorder from
54 its workers' compensation insurance carrier or to provide for it through its self-insurance program,
55 whichever is applicable.

56 (5) The receipt of benefits is contingent on a claim being made within three years from and
57 after a licensed psychiatrist or certified mental health nurse practitioner has made the claimant
58 aware of a post-traumatic stress disorder diagnosis in accordance with this section.

59 (e) Any employer that elects to offer coverage to first responders for post-traumatic stress
60 disorder under this section shall report post-traumatic stress disorder claims data to the Offices of
61 the Insurance Commissioner directly or via the employer's private workers' compensation
62 insurance carrier, whichever is applicable, beginning July 1, 2021, or from the first day of the
63 employer's next workers' compensation insurance policy or self-insurance program term, which
64 provides such elective coverage, whichever is later.

65 (f) The Offices of the Insurance Commissioner shall report annually on claims data related
66 to post-traumatic stress disorder claims for first responders to the Joint Committee on Volunteer
67 Fire Department and Emergency Medical Services beginning January 1, 2022.

68 (g) The amendments made to this section during the 2021 regular session of the
69 Legislature to recognize post-traumatic stress disorder as a compensable injury subject to the
70 provisions of this section shall expire on July 1, ~~2026~~ 2030, unless extended by the Legislature.

NOTE: The purpose of this bill is to expand the professionals who may diagnose post-traumatic stress disorder.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.