

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5428

FISCAL
NOTE

By Delegate Pinson

[Introduced February 10, 2026; referred to the
Committee on Government Organization then
Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
 2 designated §30-29-11a, relating to providing traumatic event counseling for peace officers,
 3 firefighters and 911 dispatchers; report; exceptions; and providing definitions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-11a. Traumatic event counseling for peace officers, firefighters and 911 dispatchers; report; exceptions; definitions.

1 (a) Notwithstanding any other provision of this code, the Law-Enforcement Professional
 2 Standards Subcommittee established pursuant to §30-29-2 of this code shall establish a program
 3 to provide peace officers, firefighters and 911 dispatchers who are exposed to any one of the
 4 following events while in the course of duty up to twelve visits of licensed counseling, which may
 5 be provided through telehealth, paid for by the employer:

6 (1) Visually or audibly witnessing the death or maiming or visually or audibly witnessing the
 7 immediate aftermath of such a death or maiming of one or more human beings;

8 (2) Responding to or being directly involved in a criminal investigation of an offense
 9 involving a dangerous crime against children;

10 (3) Requiring rescue in the line of duty where one's life was endangered;

11 (4) Using deadly force or being subjected to deadly force in the line of duty, regardless of
 12 whether the peace officer or firefighter was physically injured;

13 (5) Witnessing the death of another peace officer or firefighter while engaged in the line of
 14 duty;

15 (6) Responding to or being directly involved in an investigation regarding the drowning or
 16 near drowning of a child.

17 (b) If the licensed mental health professional determines that the peace officer, firefighter
 18 or 911 dispatcher needs additional visits of licensed counseling beyond that which the peace
 19 officer, firefighter or 911 dispatcher is entitled to under subsection (a) of this section and that the

20 additional visits are likely to improve the peace officer's, firefighter's or 911 dispatcher's condition,
21 the employer shall pay for up to an additional twenty-four visits, if the visits occur within one year
22 after the first visit pursuant to this section.

23 (c) An employer may not require a peace officer, firefighter or 911 dispatcher who is
24 receiving treatment pursuant to this section to use the peace officer's, firefighter's or 911
25 dispatcher's accrued paid vacation leave, personal leave or sick leave if the peace officer,
26 firefighter or 911 dispatcher leaves work to attend a treatment visit pursuant to this section.

27 (d) If the licensed mental health professional determines that the peace officer, firefighter
28 or 911 dispatcher is not fit for duty while the peace officer, firefighter or 911 dispatcher is receiving
29 treatment pursuant to this section, the employer shall ensure that the peace officer, firefighter or
30 911 dispatcher has no loss of pay and benefits for up to thirty calendar days per incident after the
31 date the licensed mental health professional determines that the employee is not fit for duty if all of
32 the following apply:

33 (1) The peace officer, firefighter or 911 dispatcher is unable to work light duty or the
34 employer does not offer a light duty option;

35 (2) The peace officer, firefighter or 911 dispatcher has exhausted the peace officer's,
36 firefighter's or 911 dispatcher's sick leave, vacation leave or other leave that is provided as part of
37 the peace officer's, firefighter's or 911 dispatcher's benefits package;

38 (3) If the employer offers short-term disability benefits, the employer offered and the peace
39 officer, firefighter or 911 dispatcher elected short-term disability benefits, but the peace officer,
40 firefighter or 911 dispatcher is not eligible to receive short-term disability benefits; or

41 (4) The employer does not have a supplemental program that provides pay and benefits
42 after the occurrence of an injury.

43 (e) An employer shall allow a peace officer, firefighter or 911 dispatcher to select the peace
44 officer's, firefighter's or 911 dispatcher's own licensed mental health professional: *Provided*, That if
45 a licensed mental health professional declines to provide counseling pursuant to this section, the

46 employer is not required to secure the services of that licensed mental health professional.

47 (f) Payment by the employer for licensed counseling pursuant to this section does not
48 create a presumption that a claim is compensable.

49 (g) For each program established pursuant to this section, this state and each political
50 subdivision of this state shall compile the following data for peace officers, firefighters and 911
51 dispatchers:

52 (1) For each category of persons, the total number of persons who have participated in the
53 program;

54 (2) For each category of persons, the average number of visits per person;

55 (3) For each category of persons, the average number of months that a person participated
56 in the program;

57 (4) For each category of persons, the average number of days that a person who
58 participated in the program missed work;

59 (5) For each category of persons, the total number of persons who participated in the
60 program and who subsequently filed a workers' compensation claim and the number of those
61 claims that were approved and the number of those claims that were denied;

62 (6) For each category of persons, of the total number of persons who have participated in
63 the program, the percentage of persons who received additional visits under subsection (b) of this
64 section;

65 (7) For each category of persons, the total number of persons who were deemed not fit for
66 duty by a licensed mental health professional pursuant to subsection (d) of this section; and

67 (8) For each employer, the total amount of work missed by each category of persons who
68 participated in the program and how missed work was provided for by the employer or through
69 employee benefits.

70 (h) On or before September 1 of each year, this state and each political subdivision of this
71 state shall submit the data collected pursuant to subsection (g) of this section to the department of

72 administration. On or before October 1 of each year, the department of administration shall
73 compile the data into a report and submit the report to the governor, the president of the senate,
74 the speaker of the house of delegates, the chairperson of the senate health and human services
75 committee, the chairperson of the house of delegates health and human services committee, or its
76 successor committee, the chairperson of the senate military affairs, public safety and border
77 security committee, or its successor committee, and the chairperson of the house of
78 representatives military affairs and public safety committee, or its successor committee, and shall
79 provide a copy of this report to the secretary of state. Subsection (g) of this section and this
80 subsection do not authorize this state or a political subdivision of this state to compile and report
81 data that is protected under the health insurance portability and accountability act of 1996 (P.L.
82 104-191; 110 Stat. 1936).

83 (i) This section does not apply to a state employer that provides a program to its peace
84 officers, firefighters and 911 dispatchers that is characterized by all of the following:

85 (1) The program is paid for by the employer;

86 (2) The program provides licensed counseling for any issue. For licensed counseling
87 related to trauma experienced while in the line of duty, the licensed counseling is provided on the
88 request of the peace officer, firefighter or 911 dispatcher and is in person; and

89 (3) The program offers at least twelve visits per year and will offer additional visits if the
90 licensed mental health professional determines that additional visits are necessary.

91 (j) For the purposes of this section:

92 (1) "Licensed counseling" means counseling provided by a licensed mental health
93 professional.

94 (2) "Licensed mental health professional" means a licensed individual who specializes in
95 trauma and crisis, who uses evidence-based treatment options and who is one of the following:

96 (A) A psychiatrist who is licensed pursuant to §30-3-1 et seq. of this code.

97 (B) A psychologist who is licensed pursuant to §30-21-1 et seq. of this code.

98 (C) A mental health professional who is licensed pursuant to this chapter and who holds
99 either a master's or doctoral degree related to the mental health profession; or

100 (D) A mental health nurse practitioner or a psychiatric clinical nurse specialist who is
101 licensed pursuant to this chapter.

102 (3) "911 dispatcher" means a 911 dispatcher in a primary or secondary public safety
103 answering point.

104 (4) "Peace officers" includes constables and deputy constables.

NOTE: The purpose of this bill is to establish a program to provide traumatic event counseling for peace officers, firefighters and 911 dispatchers.

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