

24102624D

HOUSE BILL NO. 68

Offered January 10, 2024

Prefiled December 22, 2023

A BILL to amend and reenact § 65.2-107 of the Code of Virginia, relating to workers' compensation; post-traumatic stress disorder incurred by dispatchers.

Patrons—Bulova, Helmer, Bennett-Parker and Henson

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-107 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-107. Post-traumatic stress disorder, anxiety disorder, or depressive disorder incurred by law-enforcement officers, firefighters, and dispatchers.

A. As used in this section:

"Anxiety disorder" means a disorder that meets the diagnostic criteria for one or more of the anxiety disorders specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Depressive disorder" means a disorder that meets the diagnostic criteria for one or more of the depressive disorders specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Dispatcher" means an individual employed by a public safety answering point, an emergency medical dispatch service provider, or both, who is qualified to operate communications systems to receive requests for emergency assistance and provide for the appropriate emergency response either directly or through communication with the appropriate public safety office or emergency medical services provider.

"Firefighter" means any (i) salaried firefighter, including special forest wardens designated pursuant to § 10.1-1135, emergency medical services personnel, and local or state fire scene investigator and (ii) volunteer firefighter and volunteer emergency medical services personnel.

"In the line of duty" means any action that a law-enforcement officer or firefighter was obligated or authorized to perform by rule, regulation, written condition of employment service, or law.

"Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System; (ii) member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City of Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer; (ix) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (x) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xi) officer of the police force established and maintained by the Norfolk Airport Authority; (xii) sworn officer of the police force established and maintained by the Virginia Port Authority; or (xiii) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education.

"Mental health professional" means a board-certified psychiatrist or a psychologist licensed pursuant to Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

"Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder as specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1, 2020, for post-traumatic stress disorder, and for purposes of subdivisions 1 through 4 of this definition, on or after July 1, 2023, for anxiety disorder or depressive disorder:

1. Resulting in serious bodily injury or death to any person or persons;
2. Involving a minor who has been injured, killed, abused, or exploited;
3. Involving an immediate threat to life of the claimant or another individual;
4. Involving mass casualties; or
5. Responding to crime scenes for investigation.

B. Post-traumatic stress disorder, anxiety disorder, or depressive disorder incurred by a law-enforcement officer, firefighter, or dispatcher is compensable under this title if:

INTRODUCED

HB68

59 1. A mental health professional examines a law-enforcement officer ~~or~~, firefighter, *or dispatcher* and
60 diagnoses the law-enforcement officer ~~or~~, firefighter, *or dispatcher* as suffering from post-traumatic
61 stress disorder, anxiety disorder, or depressive disorder as a result of the individual's undergoing a
62 qualifying event;

63 2. The post-traumatic stress disorder, anxiety disorder, or depressive disorder resulted from the
64 law-enforcement officer's ~~or~~, firefighter's, *or dispatcher's* acting in the line of duty and, in the case of a
65 firefighter, such firefighter complied with federal Occupational Safety and Health Act standards adopted
66 pursuant to 29 C.F.R. 1910.134 and 29 C.F.R. 1910.156;

67 3. The law-enforcement officer's ~~or~~, firefighter's, *or dispatcher's* undergoing a qualifying event was a
68 substantial factor in causing his post-traumatic stress disorder, anxiety disorder, or depressive disorder;

69 4. Such qualifying event, and not another event or source of stress, was the primary cause of the
70 post-traumatic stress disorder, anxiety disorder, or depressive disorder; and

71 5. The post-traumatic stress disorder, anxiety disorder, or depressive disorder did not result from any
72 disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or
73 similar action of the law-enforcement officer ~~or~~, firefighter, *or dispatcher*.

74 Any such mental health professional shall comply with any workers' compensation guidelines for
75 approved medical providers, including guidelines on release of past or contemporaneous medical records.

76 C. Notwithstanding any provision of this title, workers' compensation benefits for any
77 law-enforcement officer ~~or~~, firefighter, *or dispatcher* payable pursuant to this section shall (i) include
78 any combination of medical treatment prescribed by a board-certified psychiatrist or a licensed
79 psychologist, temporary total incapacity benefits under § 65.2-500, and temporary partial incapacity
80 benefits under § 65.2-502 and (ii) be provided for a maximum of 52 weeks from the date of diagnosis.
81 No medical treatment, temporary total incapacity benefits under § 65.2-500, or temporary partial
82 incapacity benefits under § 65.2-502 shall be awarded beyond four years from the date of the qualifying
83 event that formed the basis for the claim for benefits under this section. The weekly benefits received by
84 a law-enforcement officer ~~or~~ a, firefighter, *or dispatcher* pursuant to § 65.2-500 or 65.2-502, when
85 combined with other benefits, including contributory and noncontributory retirement benefits, Social
86 Security benefits, and benefits under a long-term or short-term disability plan, but not including
87 payments for medical care, shall not exceed the average weekly wage paid to such law-enforcement
88 officer or firefighter.

89 D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters, *and no*
90 *later than January 1, 2025, each employer of dispatchers* shall (i) make peer support available to such
91 ~~law-enforcement officers and firefighters individuals~~ and (ii) refer a ~~law-enforcement officer or~~
92 ~~firefighter~~ *such individuals* seeking mental health care services to a mental health professional.

93 E. Each fire basic training program conducted or administered by the Department of Fire Programs
94 or a municipal fire department in the Commonwealth shall provide, in consultation with the Department
95 of Behavioral Health and Developmental Services, resilience and self-care technique training for any
96 individual who begins basic training as a firefighter on or after July 1, 2021.