

SENATE BILL REPORT

SB 5043

As of January 31, 2025

Title: An act relating to industrial insurance coverage for posttraumatic stress disorders affecting correctional facility workers.

Brief Description: Concerning industrial insurance coverage for posttraumatic stress disorders affecting correctional facility workers.

Sponsors: Senators Dhingra, Nobles, Conway, MacEwen, Saldaña, Lovick, Salomon, Stanford, Wagoner, Wilson, J., Shewmake, Trudeau, Valdez, Bateman, Lias, Chapman, Lovelett, Cleveland, Frame, Hasegawa, Orwall, Slatter, Wellman and Wilson, C..

Brief History:

Committee Activity: Labor & Commerce: 1/31/25.

Brief Summary of Bill

- Excludes certain correctional facility workers from the Department of Labor and Industries rule that claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease for industrial insurance (workers' compensation) purposes.
- Creates a rebuttable presumption that post-traumatic stress disorder is an occupational disease under workers' compensation for certain correctional facility workers.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Susan Jones (786-7404)

Background: Workers' Compensation. Under the state's industrial insurance (workers' compensation) laws, a worker who is injured or suffers disability from an occupational

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disease in the course of employment is entitled to certain benefits. An occupational disease is one that arises naturally and proximately out of employment.

Mental Conditions or Disabilities Caused by Stress Excluded from Occupational Disease.

The Department of Labor and Industries (L&I) was required to adopt a rule that claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease. The L&I rule provides that these stress-caused mental conditions or disabilities claims do not fall within the definition of an occupational disease. Examples in the rule of mental conditions or mental disabilities caused by stress that do not fall within occupational disease include those conditions and disabilities resulting from:

- change of employment duties;
- conflicts with a supervisor;
- actual or perceived threat of loss of a job, demotion, or disciplinary action;
- relationships with supervisors, coworkers, or the public;
- specific or general job dissatisfaction;
- work load pressures;
- subjective perceptions of employment conditions or environment;
- loss of job or demotion for whatever reason;
- fear of exposure to chemicals, radiation biohazards, or other perceived hazards;
- objective or subjective stresses of employment;
- personnel decisions; or
- actual, perceived, or anticipated financial reversals or difficulties occurring to the businesses of self-employed individuals or corporate officers.

Under this rule, stress resulting from exposure to a single traumatic event, such as actual or threatened death, actual or threatened physical assault, actual or threatened sexual assault, and life-threatening traumatic injury, may be considered an industrial injury. These exposures must occur in one of the following ways:

- directly experiencing the event;
- witnessing, in person, the event as it occurred to others; or
- extreme exposure to aversive details of the event.

Repeated exposure to traumatic events, none of which are a single traumatic event, is not an industrial injury or an occupational disease. A single traumatic event that occurs within a series of exposures may be considered an industrial injury.

Exclusion from the Labor and Industries Rule for Certain First Responders and Nurses. The rule adopted by L&I does not apply to occupational disease claims resulting from posttraumatic stress disorders of certain firefighters, law enforcement officers, public safety telecommunicators, and direct care registered nurses under specified circumstances.

Posttraumatic stress disorder is not considered an occupational disease if the disorder is directly attributed to disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by an employer. "Posttraumatic stress

disorder" means a disorder that meets the diagnostic criteria for posttraumatic stress specified by the American psychiatric association in the diagnostic and statistics manual of mental disorders, fifth edition, or in a later edition as adopted by L&I in rule.

Presumption of Posttraumatic Stress Disorder as an Occupational Disease for Certain First Responders and Nurses. There is a prima facie presumption that posttraumatic stress disorder is an occupational disease for certain firefighters, law enforcement officers, and direct care registered nurses who are covered for workers' compensation. This presumption of occupational disease may be rebutted by a preponderance of the evidence. Such evidence may include, but is not limited to, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities.

The presumption is extended following termination of service or employment for a period of three calendar months for each year of requisite service or employment, but not beyond 60 months following the last date of employment.

The presumption only applies to active or former firefighters and law enforcement officers who have posttraumatic stress disorder that develops or manifests itself after the individual has served at least ten years and for direct care registered nurses after the individual has been employed on a fully compensated basis as a direct care registered nurse in Washington State for at least 90 consecutive days.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Exclusion from the Labor and Industries Rule for Certain Correctional Facility Workers. The L&I rule that claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease for workers' compensation purposes does not apply to occupational disease claims resulting from posttraumatic stress disorders of correctional facility workers. This exclusion from the L&I rule only applies to a correctional facility workers who has posttraumatic stress disorder that develops or manifests itself after the individual has been employed on a fully compensated basis as a correctional facility workers in Washington State for at least 90 consecutive days.

Posttraumatic stress disorder is not considered an occupational disease for these workers if the disorder is directly attributed to disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by an employer.

Presumption of Posttraumatic Stress Disorder as an Occupational Disease for Certain Correctional Facility Workers. For correctional facility workers covered under workers' compensation who are employed on a fully compensated basis, there is a prima facie presumption that posttraumatic stress disorder is an occupational disease. The presumption may be rebutted by a preponderance of the evidence.

This presumption only applies to a correctional facility worker who has posttraumatic stress disorder that develops or manifests itself after the individual has been employed on a fully compensated basis as a correctional facility workers in Washington State for at least 90 consecutive days.

The presumption extends to a claimant following termination of employment for three calendar months for each year the claimant was a correctional facility worker employed on a fully compensated basis, but not beyond 60 months following the last date of employment.

In a board of workers' compensation or court appeal, if the final decision allows the claim for benefits, the board or court must order that all reasonable costs of the appeal, including attorneys' fees and witness fees, be paid to the claimant by the opposing party. When reasonable costs of the appeal must be paid by L&I under this section in a state fund case, the costs must be paid from the accident fund and charged to the costs of the claim.

Correctional facility worker means an employee of the Department of Corrections working at a correctional facility where persons sentenced to the jurisdiction of the Department of Corrections are in total confinement. Correctional facility does not include any facility or institution operated by contract by the secretary of the Department of Corrections.

Appropriation: None.

Fiscal Note: Requested on January 14, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2026.

Staff Summary of Public Testimony On Proposed Substitute: PRO: We have learned a lot about post-traumatic stress disorder, the manner in which it manifests itself, and also the trauma people are exposed to in their jobs. We have seen that with the high rise of suicides and of substance use disorder issues. People are using those mechanisms to really take care of an underlying problem. The bill does what we have done with the firefighters and the nurses. The bill says that correctional facilities officers experience the same kind of trauma because of the assaults, suicides, and fights they see. The substitute only applies to workers in the state institutions, which will take out the concern of local cities and counties. The intent was always the state facilities.

It is a rebuttable presumption, which means they assume you got PTSD on your job, but they can overcome that assumption based on other factors. It really is a recognition that the work that these individuals are doing is difficult and stressful and can sometimes lead to issues of PTSD and that we are taking care of these workers.

All correctional officers workers perform mentally and physically demanding work in a

demanding environment to keep the population safe. But because the environment that we work in is violent, things can become unsafe very quickly, which has a negative impact in their health with PTSD being the most prominent health issue. Testifiers described danger and violent experiences and seeing suicides and having to report back very quickly causing additional stress and being unable to get help with PTSD. Most correctional staff die within a few years of retiring and most don't make it through retirement.

All correctional worker staff can be impacted by these experiences. Prisons are a unique environment. They are where people live, eat, get their education, learn skills, and have jobs. The term corrections facility staff was chosen deliberately to capture anyone that works inside who has contact with incarcerated individuals. The cooks, people working in maintenance and in the gym, medical staff, and, the corrections officers are all working day to day within incarcerated individuals.

Working in corrections should come with a disclaimer about retiring with the mental health disorder. They don't have the resources for PTSD. Training and education cannot prepare a worker for what the job may entail. The bill identifies another occupation that deserves that sure and certain relief for correctional facility workers suffering from PTSD. Many of these workers with PTSD are separated, divorced, and have limited custody privileges due to the severity of their PTSD symptoms. They cannot deal with their daily stress, let alone the stress of a workers compensation claim and giving them the important protection of this presumption helps to remove or reduce one source of stress.

People have concerns about PTSD and the costs of treating it. L&I is not treating it at all. There is nothing that can prevent PTSD from happening. They can recover if they have access to treatment.

OTHER: While we empathize with the need for PTSD coverage, we want to share some concerns to consider before moving the bill out of the committee. Besides the concern expressed by the lack of a holistic approach to prevent PTSD, the other concerns are the financial assisting ability of the workers' comp system and the subsidization shared by other industry groups. The workers' comp system is not designed for presumptive occupational diseases. The experiment with the firefighters and law enforcement presumptive coverage since 2018 has resulted in 21 percent permanent disability. There is premature disability of these professionals in their 30s, 40s and 50s. For these professionals, they are leaving their careers early, worklessness results in mental issues that are not healthy for them or their families.

The second concern is the sustainability of the system. The fiscal note is exceptionally high and will likely exceed that. L&I had to subsidize 50 percent of the public safety risk class rate increase in 2025 and more subsidized decisions likely needed in the future. It is not fair to burden other industry groups. We have worked with some sponsors of the bill and the companion bill and on an amendment with technical advice from L&I. This amendment will limit these subsidizations so that the anticipated cost increase will not burden other

industries.

We urge you to require DOC and other industries with presumptive PTSD coverage to institute proactive prevention measures to mitigate the disease and to ensure the sustainability of the workers' comp system.

Persons Testifying: PRO: Senator Manka Dhingra, Prime Sponsor; Doug Palmer, Washington State Association for Justice; Sheena Bates; Christopher Malone; Vicente Amaro; Brenda Wiest, Teamsters 117.

OTHER: Rose Gundersen, WA Retail Association.

Persons Signed In To Testify But Not Testifying: No one.