
**Labor & Workplace Standards
Committee**

HB 1070

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

Sponsors: Representatives Davis, Low, Peterson, Griffey, Reeves, Tharinger, Street, Nance, Goodman, Ormsby, Scott, Mena, Macri, Volz, Stonier, Alvarado, Fosse, Doglio, Bernbaum, Ryu, Leavitt, Berry, Eslick, Callan, Obras, Farivar, Timmons, Ortiz-Self, Simmons, Pollet, Duerr, Lekanoff and Salahuddin.

Brief Summary of Bill

- Allows occupational disease workers' compensation claims for correctional facility workers based on mental conditions from posttraumatic stress disorders (PTSD).
- Creates a rebuttable presumption that correctional facility workers' PTSD is an occupational disease.

Hearing Date: 1/17/25

Staff: Benjamin McCarthy (786-7116).

Background:

Mental Health Claims Under the Workers' Compensation Program.

Under Washington's industrial insurance program (workers' compensation), a worker who is injured or suffers a disability from an occupational disease in the course of employment, is entitled to certain benefits. An occupational disease is a disease or infection that arises naturally

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and proximately out of employment.

The Department of Labor and Industries (Department), which administers the workers' compensation program, was required to adopt a rule establishing that mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease, and thus, are not the basis for workers' compensation claims.

The Department's rule gives examples of mental conditions and mental disabilities caused by stress that are not occupational diseases, including those caused by: (1) changes in employment duties; (2) conflicts with a supervisor or relationships with coworkers or the public; (3) workload pressures; (4) subjective perceptions of employment conditions or environment; and (5) fear of exposure to chemicals, radiation biohazards, or other perceived hazards.

However, stress resulting from exposure to a single traumatic event may be considered an injury in the course of employment, and thus, a basis for a workers' compensation claim. To constitute a single traumatic event, the worker must have been exposed to the event by: (1) directly experiencing the event; (2) witnessing, in person, the event as it occurred to others; or (3) extreme exposure to aversive details of the event. Examples of traumatic events that could constitute a single traumatic event are actual or threatened death, actual or threatened physical assault, actual or threatened sexual assault, and life-threatening traumatic injury. Repeated exposure to traumatic events, none of which is a single traumatic event, is not an injury or occupational disease.

Exception to the Department's Rule for Posttraumatic Stress Disorders Claims by Certain Type of Employees.

The Department's rule does not apply to occupational disease claims resulting from posttraumatic stress disorders (PTSD) of certain firefighters, law enforcement officers, public safety telecommunicators, and direct care registered nurses.

For the exception to apply, first responders hired after certain dates must have submitted to a psychological examination that ruled out the presence of PTSD from preemployment exposures. If an employer does not provide the psychological examination, the exception applies.

The worker's PTSD is not considered an occupational disease if it is directly attributed to disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by an employer.

Presumption that Posttraumatic Stress Disorders is an Occupational Disease for Certain Workers.

There is also a rebuttable presumption that PTSD is an occupational disease for certain firefighters, law enforcement officers, public safety telecommunicators, and direct care registered nurses. For the presumption to apply to firefighters, law enforcement officers, or public safety telecommunicators, the PTSD must develop or manifest after the worker has served

for at least ten years. For the presumption to apply to direct care registered nurses, the PTSD must develop or manifest after the worker has been employed in a fully compensated basis as a direct care registered nurse in Washington for at least 90 consecutive days.

The presumption extends after termination for three calendar months for each year a worker served. The extension may not last more than 60 months following the last day of employment. The presumption may be rebutted by a preponderance of the evidence.

Determinations involving these presumptions may be appealed to the Board of Industrial Insurance Appeals (Board) or a court. If the final decision of the Board or court allows the claim, the claimant or the claimant's beneficiary must receive, from the opposing party, all reasonable costs of the appeal, including attorneys' fees and witness fees. When the cost of appeal must be paid by the Department in a state fund case, the costs must be paid from the Accident Fund and charged to the costs of the claim.

Summary of Bill:

Exception to the Department's Rule for Posttraumatic Stress Disorders Claims by Certain Type of Employees.

Claims resulting from posttraumatic stress disorders (PTSD) for correctional facility workers are not subject to the Department's rule that mental health conditions or mental disabilities caused by stress are not occupational diseases. A correctional facility worker must be employed as a correctional facility worker on a fully compensated basis in Washington for at least 90 days before the worker's PTSD develops or manifests.

Presumption That Posttraumatic Stress Disorders is an Occupational Disease for Certain Workers.

A correctional facility worker whose posttraumatic stress disorders (PTSD) develops or manifests after the worker has been employed as a correctional facility worker on a fully compensated basis in Washington state for at least 90 days, receives a rebuttable presumption that PTSD is an occupational disease. This presumption may be rebutted by a preponderance of the evidence.

After the termination of a correctional facility worker's employment, the presumption extends for three calendar months for each year the claimant was employed as a correctional facility worker but may not extend more than 60 months after the last day of employment.

Determinations involving these presumptions may be appealed to the Board of Industrial Insurance Appeals (Board) or a court. If the final decision of the Board or court allows the claim, the claimant or the claimant's beneficiary must receive, from the opposing party, all reasonable costs of the appeal, including attorneys' fees and witness fees. When the cost of appeal must be paid by the Department 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.

A correctional facility worker is an individual working at a correctional facility. A correctional facility is a facility or institution operated directly or by contract by the Secretary of the Department of Corrections for the purpose of incarcerating adults in total or partial confinement.

Appropriation: None.

Fiscal Note: Requested on January 10, 2025.

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