

HOUSE BILL REPORT

HB 1070

As Reported by House Committee On:
Labor & Workplace Standards

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: 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 History:

Committee Activity:

Labor & Workplace Standards: 1/17/25, 1/31/25 [DPS].

Brief Summary of Substitute 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.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Berry, Chair; Fosse, Vice Chair; Scott, Vice Chair; Bronoske, Obras and Ortiz-Self.

Minority Report: Without recommendation. Signed by 3 members: Representatives

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Schmidt, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; McEntire.

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 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 of Labor and Industries' 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.

Generally, for the exception to apply, first responders hired after certain dates must have

submitted at the time of hire to an employer-provided psychological examination that ruled out the presence of PTSD from preemployment exposures. But if an employer did not provide the psychological examination at the time of hire, 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 Substitute Bill:

Exception to the Department of Labor and Industries' 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 of Labor and Industries' (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 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.

Correctional facility workers are:

- staff at 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;
- staff employed at a correctional facility as a community corrections officer;
- staff employed at a juvenile facility institution; and
- staff employed at county, town, and city jails.

Substitute Bill Compared to Original Bill:

The substitute bill broadens the definition of "correctional facility worker" to include certain Community Corrections Officers, staff at juvenile facilities, and employees at town, city, and county jails.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 31, 2025.

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

Staff Summary of Public Testimony:

(In support) Posttraumatic stress disorder (PTSD) is a common mental health disorder for people working in correctional facilities. They experience PTSD at a similar rate to war veterans. Correctional officers commit suicide at a higher rate than other law enforcement officers.

Corrections facility workers are first responders with prisons and witness unspeakable horrors. They experience and witness assaults, suicides, and chaotic violent scenes throughout the year. Correctional facility workers include staff who must process people who have died in prison, taking pictures of the body and the crime scene.

Only so much can be done to prevent exposure to trauma in this environment. Workers who have the diagnosis deserve support. Workers with PTSD cannot deal with the stress of a claim; the presumption will speed up the process. Speeding up the process will also reduce costs. Spikes in claims are because of a backlog of potential claims; they will go down.

(Opposed) Twenty percent of employees with PTSD claims do not return to work. Expanding this presumption is a disservice to employees because the system should not be waiting until they have developed PTSD. More needs to be done to prevent PTSD on the front end. The Legislature should wait until the PTSD committee has finished its report before expanding the exception.

(Other) Concerned that this will apply to city and county jails. The Workers' Compensation Advisory Committee should take a concerted look at the presumptions. More assistance is needed for employees up front to reduce these claims.

Persons Testifying: (In support) Representative Lauren Davis, prime sponsor; Doug Palmer, Washington State Association for Justice; Brenda Wiest, Teamsters Local 117; Sheena Bates; and Scott Williams.

(Opposed) Patrick Connor, NFIB.

(Other) Candice Bock, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.