

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

DRAFT
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Bill 1

LLS NO. 16-0314.01 Kristen Forrestalx4217

COMMITTEE BILL

**Legislative Oversight Committee Concerning the Treatment of Persons
with Mental Illness in the Criminal and Juvenile Justice Systems**

BILL TOPIC: "Workers' Compensation For PTSD"

A BILL FOR AN ACT

101 **CONCERNING WORKERS' COMPENSATION COVERAGE FOR**
102 **POST-TRAUMATIC STRESS DISORDER.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems. The bill includes post-traumatic stress disorder (PTSD) as a covered workers' compensation disability for a peace officer, emergency

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

medical service provider, or firefighter. The bill requires an insurer or employer to pay all authorized medical expenses of a peace officer, emergency medical service provider, or firefighter alleged to suffer from work-related PTSD.

The bill limits the dissemination of health information by health care providers to information directly related to the cause or aggravating factors of the patient's PTSD. The bill creates an expedited review process for the determination of the diagnosis of work-related PTSD.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 8-41-212 as
3 follows:

4 **8-41-212. Coverage for post-traumatic stress disorder - peace**
5 **officers, emergency medical service providers, firefighters -**
6 **legislative declaration - definitions. (1) Legislative declaration. THE**

7 GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

8 (a) PEACE OFFICERS, EMERGENCY MEDICAL SERVICE PROVIDERS,
9 AND FIREFIGHTERS ARE EXPOSED IN THE LINE OF DUTY TO CERTAIN
10 TRAUMATIC WORK-RELATED EVENTS THAT CAN LEAD TO A DIAGNOSIS OF
11 POST-TRAUMATIC STRESS DISORDER;

12 (b) A PEACE OFFICER, EMERGENCY MEDICAL SERVICE PROVIDER,
13 OR FIREFIGHTER SHOULD NOT BE DISCOURAGED FROM SEEKING
14 TREATMENT FOR PTSD. THEREFORE, IT IS IMPORTANT THAT:

15 (I) LIMITATIONS BE PLACED ON INFORMATION GIVEN TO THIRD
16 PARTIES BY HEALTH CARE PROVIDERS AND OTHER PERSONS OR ENTITIES
17 REGARDING PTSD; AND

18 (II) JUDICIAL REVIEW FOR A PTSD CLAIM SHOULD BE EXPEDITED;
19 AND

20 (c) PTSD IS A WORKPLACE INJURY THAT SHOULD BE COVERED BY
21 THE "WORKERS' COMPENSATION ACT OF COLORADO" FOR PEACE

1 OFFICERS, EMERGENCY MEDICAL SERVICE PROVIDERS, AND FIREFIGHTERS,
2 AND THIS ISSUE IS A MATTER OF STATEWIDE CONCERN.

3 (2) **Definitions.** AS USED IN THIS SECTION:

4 (a) "EMERGENCY MEDICAL SERVICE PROVIDER" MEANS A PERSON
5 CERTIFIED PURSUANT TO PART 2 OF ARTICLE 3.5 OF TITLE 25, C.R.S.

6 (b) "FIREFIGHTER" MEANS AN OFFICER OR MEMBER OF A FIRE
7 DEPARTMENT OR FIRE PROTECTION OR FIRE-FIGHTING AGENCY OF THE
8 STATE, OR OF ANY MUNICIPAL OR QUASI-MUNICIPAL CORPORATION IN THIS
9 STATE, WHO RECEIVES COMPENSATION FOR SERVICES RENDERED AS A
10 FIREFIGHTER.

11 (c) "HEALTH CARE PROVIDER" MEANS A PHYSICIAN OR
12 PSYCHIATRIST LICENSED PURSUANT TO ARTICLE 36 OF TITLE 12, C.R.S., A
13 PSYCHOLOGIST LICENSED PURSUANT TO PART 3 OF ARTICLE 43 OF TITLE 12,
14 C.R.S., OR A PERSON WORKING UNDER THE SUPERVISION OF A LICENSED
15 PHYSICIAN, PSYCHIATRIST, OR PSYCHOLOGIST.

16 (d) "LINE OF DUTY" MEANS AN ACTION OR ACTIVITY THAT A PEACE
17 OFFICER, EMERGENCY MEDICAL SERVICE PROVIDER, OR FIREFIGHTER IS
18 NORMALLY REQUIRED TO PERFORM IN THE COURSE OF HIS OR HER
19 EMPLOYMENT. THE LINE OF DUTY INCLUDES CRIME CONTROL OR
20 REDUCTION; ENFORCEMENT OF CRIMINAL LAW; PROVISION OF MEDICAL
21 SERVICES; EMERGENCY RESPONSE; RESCUE; FIREFIGHTING; AND ACTIONS
22 THAT A PEACE OFFICER, EMERGENCY MEDICAL SERVICE PROVIDER, OR
23 FIREFIGHTER IS AUTHORIZED OR OBLIGATED BY LAW, RULE, OR CONDITION
24 OF EMPLOYMENT OR SERVICE TO PERFORM OR FOR WHICH THE PERSON IS
25 COMPENSATED BY THE PUBLIC OR PRIVATE AGENCY HE OR SHE SERVES.

26 (e) "PEACE OFFICER" MEANS A PEACE OFFICER AS DESCRIBED IN
27 SECTIONS 16-2.5-102, 16-2.5-103, 16-2.5-105, 16-2.5-108, 16-2.5-114,

1 16-2.5-146, AND 16-2.5-148, C.R.S.

2 (f) "POST-TRAUMATIC STRESS DISORDER" OR "PTSD" HAS THE
3 SAME MEANING AS SET FORTH IN THE MOST RECENT EDITION OF THE
4 DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (DSM)
5 PROVIDED BY THE AMERICAN PSYCHIATRIC ASSOCIATION.

6 (g) "SERIOUS BODILY INJURY" MEANS AN INJURY THAT INVOLVES
7 A RISK OF:

8 (I) DEATH;

9 (II) SERIOUS PERMANENT DISFIGUREMENT; OR

10 (III) PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION OF ANY
11 PART OR ORGAN OF THE BODY.

12 (3) **Benefits.** IF A PEACE OFFICER, EMERGENCY MEDICAL SERVICE
13 PROVIDER, OR FIREFIGHTER SEEKS TREATMENT FOR PTSD, THE EMPLOYER
14 OR WORKERS' COMPENSATION INSURER SHALL PAY ALL AUTHORIZED
15 MEDICAL EXPENSES EVEN IF IT IS SUBSEQUENTLY DETERMINED THAT THE
16 OFFICER, PROVIDER, OR FIREFIGHTER WAS NOT DIAGNOSED WITH PTSD.

17 (4) **Reporting of information.** NOTWITHSTANDING ANY OTHER
18 PROVISION OF LAW, A HEALTH CARE PROVIDER OR OTHER PERSON OR
19 ENTITY SHALL REPORT INFORMATION ABOUT A PEACE OFFICER'S,
20 EMERGENCY MEDICAL SERVICE PROVIDER'S, OR FIREFIGHTER'S CLAIM FOR
21 PTSD BENEFITS TO THE EMPLOYER OR INSURER, SUBJECT TO THE
22 FOLLOWING LIMITATIONS:

23 (a) THE INFORMATION REPORTED MUST ENCOMPASS SPECIFIC
24 EVENTS AND CIRCUMSTANCES DIRECTLY RELATED TO THE SOLE CAUSE OF
25 PTSD IN THE LINE OF DUTY OR A SUBSTANTIAL AGGRAVATION OF A
26 PREEXISTING CONDITION WHERE THE AGGRAVATING CONDITION IS THE
27 CAUSE OF PTSD. THE HEALTH CARE PROVIDER SHALL USE THE MOST

1 RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF
2 MENTAL DISORDERS (DSM) PROVIDED BY THE AMERICAN PSYCHIATRIC
3 ASSOCIATION FOR THE DIAGNOSIS AND TREATMENT OF PTSD. A HEALTH
4 CARE PROVIDER OR OTHER PERSON OR ENTITY SHALL NOT INCLUDE
5 ADDITIONAL MEDICAL INFORMATION IN THE DIAGNOSIS, TREATMENT, AND
6 REPORTING OF PTSD UNLESS THE INCLUSION IS NECESSARY FOR PROPER
7 DIAGNOSIS OR TREATMENT.

8 (b) A HEALTH CARE PROVIDER SHALL NOT REPORT THE PERSONAL
9 HISTORY OF A PEACE OFFICER, EMERGENCY MEDICAL SERVICE PROVIDER,
10 OR FIREFIGHTER EXCEPT IN THE CIRCUMSTANCES DESCRIBED IN
11 SUBSECTION (5) OF THIS SECTION.

12 (5) **Hearing.** (a) AN EMPLOYER, INSURER, OR A MAJORITY OF THE
13 MENTAL HEALTH PANEL MEMBERS SELECTED IN ACCORDANCE WITH
14 SUBSECTION (6) OF THIS SECTION MAY PETITION A DISTRICT OR CIRCUIT
15 COURT FOR AN IN CAMERA HEARING FOR THE PURPOSE OF REQUESTING AN
16 ORDER FOR THE RELEASE OF INFORMATION BEYOND THE SCOPE PERMITTED
17 BY SUBSECTION (4) OF THIS SECTION. THE HEARING MUST BE HELD WITHIN
18 THIRTY CALENDAR DAYS AFTER THE DATE THE PETITION IS FILED. NO
19 CONTINUANCE OF THE HEARING IS PERMITTED EXCEPT FOR GOOD CAUSE
20 SHOWN. THE COURT MAY ORDER AND REVIEW MEDICAL RECORDS AND
21 REPORTS BEFORE AND DURING THE IN CAMERA HEARING. COUNSEL OF
22 RECORD MUST HAVE THE OPPORTUNITY TO PRESENT OPENING AND
23 CLOSING STATEMENTS.

24 (b) A HEALTH CARE PROVIDER SHALL NOT PROVIDE AN EMPLOYER,
25 INSURER, OR MENTAL HEALTH PANEL MEMBER ANY PERSONAL HISTORY OF
26 A PEACE OFFICER, EMERGENCY MEDICAL SERVICE PROVIDER, OR
27 FIREFIGHTER OR INFORMATION REQUIRING A COURT ORDER FROM OTHER

1 PERSONS OR ENTITIES UNLESS THE COURT FINDS THAT THERE IS CLEAR AND
2 CONVINCING EVIDENCE THAT THE DISCLOSURE OF INFORMATION IS
3 NECESSARY.

4 (c) THE COURT SHALL RULE ON THE PETITION NO LATER THAN TEN
5 CALENDAR DAYS AFTER THE CLOSE OF EVIDENCE. THE ORDER MUST
6 DESIGNATE THE SPECIFIC PERSONS, INCLUDING COUNSEL OF RECORD, WHO
7 ARE PERMITTED TO VIEW INFORMATION RELEASED UNDER THIS
8 SUBSECTION (5). A PERSON WHO IS PERMITTED TO VIEW THE INFORMATION
9 DESIGNATED IN THE ORDER IS SUBJECT TO CONTEMPT PROCEEDINGS IF THE
10 PERSON RELEASES ALL OR PART OF THE INFORMATION TO A THIRD PARTY
11 NOT DESIGNATED BY THE COURT. THE ORDER IS FINAL AND NOT SUBJECT
12 TO APPEAL.

13 (d) COUNSEL OF RECORD ARE PERMITTED TO SHARE THE CONTENTS
14 OF THE RELEASED INFORMATION WITH THE TRIAL COURT JUDGE AND THE
15 HEALTH CARE PROVIDERS WHO ARE LICENSED PHYSICIANS, PSYCHIATRISTS,
16 AND PSYCHOLOGISTS. THE SELECTED HEALTH CARE PROVIDERS MAY
17 COMMENT ON THE RELEASED INFORMATION IN A SEALED, WRITTEN
18 REPORT. THE HEALTH CARE PROVIDERS SHALL PROVIDE A COPY OF ANY
19 SEALED, WRITTEN REPORT THAT IS SUBMITTED AS EVIDENCE TO THE
20 COUNSEL OF RECORD AND THE TRIAL COURT JUDGE. ALL OPEN COURT
21 REFERENCES TO THE RELEASED INFORMATION AND THE CONTENT OF THE
22 SEALED REPORTS MUST BE REFERRED TO BY THE EXHIBIT DESIGNATION.
23 THE DECISION OF THE COURT MUST REFERENCE THE RELEASED
24 INFORMATION AND THE CONTENT OF THE SEALED REPORTS IN GENERAL
25 TERMS WHEN PAYING BENEFITS PURSUANT TO SUBSECTION (3) OF THIS
26 SECTION.

27 (6) **Rights of dependents - mental health panel.** (a) A

1 DEPENDENT ENTITLED TO WORKERS' COMPENSATION BENEFITS MAY FILE
2 A CLAIM IF A PEACE OFFICER, EMERGENCY MEDICAL SERVICE PROVIDER, OR
3 FIREFIGHTER COMMITS SUICIDE AS A RESULT OF PTSD.

4 (b) THE CHIEF ADMINISTRATIVE LAW JUDGE EMPLOYED BY THE
5 OFFICE OF ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL
6 SHALL RANDOMLY SELECT A PANEL CONSISTING OF TWO LICENSED
7 PSYCHIATRISTS AND ONE LICENSED MENTAL HEALTH CARE PROVIDER
8 QUALIFIED TO DIAGNOSE PTSD FROM A LIST OF VOLUNTEERS.

9 (c) THE PANEL SHALL ISSUE A WRITTEN DECISION DETERMINING
10 WHETHER THE PEACE OFFICER'S, EMERGENCY MEDICAL SERVICE
11 PROVIDER'S, OR FIREFIGHTER'S DEATH IS A SUICIDE CAUSED BY PTSD
12 WITHIN ONE HUNDRED TWENTY DAYS AFTER THE CLAIM IS FILED. THE
13 DECISION OF THE PANEL IS FINAL AND NOT SUBJECT TO APPEAL.

14 (d) THE PANEL MAY SUBPOENA WITNESSES AND HEAR TESTIMONY,
15 SUBPOENA AND RECEIVE RECORDS AND REPORTS AS EVIDENCE, AND
16 ALLOW COUNSEL THE OPPORTUNITY TO PRESENT OPENING AND CLOSING
17 STATEMENTS.

18 (7) A PEACE OFFICER, EMERGENCY MEDICAL SERVICE PROVIDER,
19 OR FIREFIGHTER MUST FILE A CLAIM FOR WORKERS' COMPENSATION
20 BENEFITS WITHIN TWENTY-FOUR MONTHS AFTER THE DATE OF THE EVENT
21 OR CIRCUMSTANCES ALLEGED TO HAVE CAUSED POST-TRAUMATIC STRESS
22 DISORDER IN THE LINE OF DUTY IN ORDER TO BE ELIGIBLE FOR THE
23 BENEFITS.

24 **SECTION 2. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly (August
27 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the
2 state constitution against this act or an item, section, or part of this act
3 within such period, then the act, item, section, or part will not take effect
4 unless approved by the people at the general election to be held in
5 November 2016 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.