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State: Fla.

Committee Passes Bill to Award Indemnity, Death Benefits to First Responders With PTSD: Top [2017-04-18]

A bill that would compensate first responders for "mental-mental" injuries — those not accompanied by a physical injury — cleared its first committee in the Florida Legislature on Monday.



Sen. Victor Torres

The Senate Banking and Insurance Committee voted 7-0 late Monday to approve Senate Bill 1088, by Sen. Victor Torres, D-Kissimmee. The measure would provide wage-loss benefits for first responders who suffer mental or nervous injuries not accompanied by physical injuries.

Florida law currently recognizes psychiatric injuries such as post-traumatic stress disorder only for the purposes of medical care.

Torres said he introduced the bill in response to the Pulse nightclub shootings last June 12 in Orlando, where 49 people died and at least 68 others were injured. Torres said he was inspired by a telephone call from Jessica Realin, wife of Orlando Police Officer Gerry Realin, who was a member of the department's small hazmat unit tasked with recovering the bodies from inside Pulse.

"Since he left for work that day, my husband hasn't come home," Mrs. Realin told lawmakers. "My children have lost their father. They're so small, they never really got to know him."

The bill would change the evidentiary standard from "clear and convincing" to "preponderance," and was opposed by the Florida League of Cities, which said such presumption bills are too costly for local governments.

"The league is concerned with the potential fiscal impact of this bill. It changes the standard of proof and broadens the scope of benefits," Craig Kahn, the league's deputy counsel, told lawmakers.

The American Insurance Association also opposes SB 1088, said Ron Jackson, AIA Southeast region vice president.

“Our folks have always had concerns about lessening the evidence standard and perhaps setting up situations where non-work-related mental stress could proliferate in the workers’ compensation context,” Jackson said. “The standards really need to be there to establish a pretty clear bar that this was occupational in nature.”

Lowering the compensability standards of mental or nervous injuries “is expected to increase” the number of first responder compensable claims, but the fiscal impact on state and local governments is “indeterminate,” according to a bill analysis and fiscal impact statement that begins on page 51 [here](#).

“Given the reality of mass casualty events like Sandy Hook (Elementary School), and terrorist-inspired shootings like Pulse, we must recognize the obvious psychological impact on first responders who are called to contend with the aftermath of these situations,” said Maitland claimants’ attorney Geoff Bichler, whose firm Bichler, Oliver, Longo & Fox represents many first responders, including Realin, with disability claims.

“Providing lost wages to first responders who suffer from psychiatric trauma following horrific exposure will give them peace of mind in knowing that they can take care of their families and pay their bills while they recover before getting back to work,” Bichler told WorkCompCentral. “The cost to governmental employers is minimal, and I have honestly not seen one good argument against making this change.”

Monday’s committee vote was the first for SB 1088. It also must clear the Appropriations and Rules committees, the Senate and the House of Representatives before the Legislature adjourns May 5.

The Senate Government Oversight and Accountability Committee on Monday approved two measures exempting from public records the names and identifying information of injured workers or those killed on the job, and anti-fraud plans that insurers must submit to the Department of Financial Services.

[SB 1008](#) and [SB 1014](#), which passed the Banking and Insurance Committee by unanimous votes on April 3, both would require two-thirds votes in each chamber because they create public records exemptions.

SB 1008 would keep confidential injured and deceased workers’ names, dates of birth, home mailing and email addresses, and telephone numbers.

Sponsored by Sens. Rob Bradley, R-Fleming Island, and Keith Perry, R-Gainesville, the bill says such information is of a “sensitive, personal nature” and, if disclosed, would lead to an invasion of the employee’s or family’s privacy.

“Further, the release of such information could lead to discrimination against the employee by coworkers, potential employers and others,” the bill states.

The bill has one technical deficiency, according to the [analysis](#).

“The criminal penalty provision appears to be ambiguous and may need to be modified to state that unauthorized disclosure is a misdemeanor.”

PCIAA “strongly supports” SB 1008.

“There is little or no public benefit to be gained from public disclosure of this information shortly after an on-the-job injury while the employee and the family are vulnerable,” said Trey Gillespie, the association’s assistant vice president of workers’ compensation.

The Government Oversight and Accountability Committee also approved SB 1014, which would keep confidential certain information submitted to DFS by insurers to comply with insurance fraud prevention and reporting requirements.

That information would include anti-fraud education and training, anti-fraud unit organization charts, the rationale for the level of staffing and resources within the investigative unit, and the number of claims and amount of damages referred for investigation.

“Public disclosure of the carrier’s fraud investigation procedures and investigation evidence allows criminals to develop new strategies to avoid detection and hinder ongoing investigations,” Gillespie said.

The House version, [HB 1007](#), passed the House Government Operations and Technology Appropriations Subcommittee by a 12-0 vote Monday.

Meanwhile, the House’s proposed workers’ compensation overhaul legislation, [HB 7085](#), is on the Special Order Calendar today and could get second and third readings before being sent for a full floor vote.

HB 7085 would codify two state Supreme Court decisions from the spring of 2016 regarding claimants’ attorney fees and temporary total and partial disability benefits.

It would allow judges of compensation claims to depart from the statutory fee schedule and award claimants’ attorneys hourly fees of up to \$150, and it would increase temporary benefits from a maximum of 104 weeks to 260.

Amendments would raise worker benefits by lowering the threshold for impairment ratings; remove the provision that workers could not proceed with petitions for benefits if they failed to sign an acknowledgement that they may be responsible for their own attorney fees; and gives the governor 120 days instead of 45 to fill vacancies on the Three-Member Panel.