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State: Fla.

Bill Drops Conditions for PTSD Compensability for First Responders: Top [2017-12-06]

A parade of tearful first responders, spouses and survivors who were prepared to testify against a PTSD presumption bill reversed course Tuesday after the sponsoring senator dropped a set of qualifying conditions.

Senate Bill 376, as amended, passed the Senate Banking and Insurance Committee unanimously. The measure would compensate first responders for lost wages for mental injuries without a corresponding physical injuries, commonly called "mental-mental" claims.

Bill sponsor Sen. Lauren Book, D-Plantation, and other committee members met Monday evening with the first responder families before gutting her bill of requirements that first responders found overly restrictive.

"They are superheroes, but we must not forget that they are fathers and brothers and sons. We must support the men and women who never fail to support us," Book said in introducing the amendment.



The amended SB 376 would change the evidentiary standard for first responders. They would qualify for indemnity benefits without an accompanying physical injury by showing through a preponderance of the evidence that the mental injury is work-related. The draft bill used a "clear and convincing" evidence standard.

The original draft also would have required police, firefighters, paramedics and emergency medical technicians to have witnessed a murder, suicide, fatal injury or child death, or arrived on a scene where mass casualties were suffered.

The latest version would require responders only to have arrived on the scene of the traumatic incidents that later trigger their mental injuries. The amendment also would remove a provision that first responders would have to begin mental health treatment within 15 days of the traumatic incident in order to qualify for benefits.

Current Florida law covers first responders for medical benefits only for post-traumatic stress disorder and prohibits payment of wage-loss benefits unless a physical injury requiring medical treatment is present.

"The restrictions were really going to make things much worse," Orlando claimants' attorney Geoff Bichler said in a telephone interview after the committee vote. "The 15-day medical treatment requirement was a complete non-starter.

"By adding the lost-wage component, we're going to make employers finally acknowledge this is a work-related problem," said Bichler. He represents two first responders who were diagnosed with post-traumatic stress disorder after working the Pulse Nightclub scene June 12, 2016, when 49 patrons were murdered and scores injured by a gunman.

The only opponent to the amendment was the Florida League of Cities, which last week said it had not yet taken a position on the bill.

The league's deputy general counsel, David Cruz, questioned the meaning of the phrase "arrived at the scene of" and whether it includes providing security around the perimeter.

Cruz said the Ohio Bureau of Workers' Compensation analyzed similar legislation in 2015, and estimated it would cost municipalities and counties \$182 million a year and would double their self-insurance premiums.

He also testified that the legislation would open the door to increased fraud by malingerers. And Cruz said it would be

difficult to pinpoint exactly when mental injuries occurred.

“It’s important to respect the sacrifice our first responders have made and be mindful of the personal difficulties that many are going through. It’s not easy being the only person opposing a piece of legislation, but at the end of the day, our taxpayers would have to fund this policy,” Cruz said by telephone after the committee hearing.

“Keep in mind that Ohio has a population of 11 million, where Florida has over 20 million. Our costs could be even higher than what Ohio was estimating,” Cruz said.

An analysis and fiscal impact statement says the bill could raise the constitutional issue of unlawful delegation of legislative authority, since it specifies that PTSD must meet the criteria as described in the “most recent edition” of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

“According to NCCI, the implementation of SB 376 may result in an indeterminate increase in system costs for law enforcement officer, firefighter, emergency medical technician, and paramedic classifications in Florida. However, the impact on overall workers’ compensation costs would be expected to be minimal, since the data reported to (the National Council on Compensation Insurance) show that first responders represent approximately 2.2% of statewide losses in Florida,” the fiscal impact statement says.

It defines minimal impact as less than 0.2% of system costs, or less than \$36 million.

Trey Gillespie, assistant vice president of workers’ compensation for the Property Casualty Insurers Association of America, said via email that “PCI does not comment on first responder legislation.”

Lawmakers were on the verge of tears as first responders described alcohol abuse, depression and suicides:

- Stephen LaDue, the father of 30-year Tampa firefighter-paramedic Stevie LaDue, and the first responder’s sister, Megan Villa, described the events leading up to his Sept. 5 suicide. LaDue was forced to repay the city for two months of wages after it gave him paid leave. That caused him to fall into an even deeper depression, they said. Stephen LaDue recalled a single day in which a baby died in his arms after the child was thrown into a wall, then hours later, delivering a healthy baby on the way to the hospital. The breaking point for his son, LaDue said, was responding to a rape call and seeing that the victim was an ex-girlfriend. “Why can’t the people who suffer this disease get adequate help?” he asked. Added Stevie’s sister: “A firefighter’s last call should never be their own.”
- Leslie Dangerfield testified how her husband, David, a battalion chief for Indian River County Fire Rescue, shot himself to death in a field after posting a Facebook message about PTSD. The post said, “PTSD for firefighters is real. If your loved one is experiencing signs get them help quickly. 27 years of deaths and babies dying in your hands is a memory that you will never get rid off. It haunted me daily until now. My love to my crews. Be safe, take care. I love you all.” Leslie said her husband became physically and verbally abusive, got rid of the family’s dogs without anyone’s knowledge, and started drinking heavily and going on spending sprees. “Please know this is not the man I married. This is not the man I cry about every night as I try to go to sleep. We won’t benefit from this law because my husband died out in a field all alone.”
- Diana Sandell described how her husband, Rich, a Pompano Beach firefighter, drifted into a deep depression and then shot himself in front of her on March 2, 2016.

PTSD is so prevalent among firefighters that the International Association of Fire Fighters (IAFF) earlier this year opened its Center of Excellence for Behavioral Health Treatment and Recovery in Upper Marlboro, Maryland, just outside Washington, D.C.

Approximately 20% of firefighters and paramedics are diagnosed with PTSD and are six times more likely to attempt suicide than the general population, according to IAFF, citing the Journal of Occupational Health Psychology.

A 2015 survey of 1,027 U.S. firefighters found 46.8% had suicidal ideation, 19.2% had made plans to kill themselves and 15.5% had attempted suicide, according to a study by Florida State University.

Joshua Granada, an Orlando firefighter credited with saving 13 Pulse victims by making five runs to a hospital instead of waiting for police to clear the area, called himself one of the “lucky ones” because he sought treatment for PTSD early.

“Before, I was one of those guys on the fence about PTSD,” Granada said by telephone after the committee hearing. “There’s a negative culture in our profession. We’re taught at the academy that we’re Type A personalities, the cream of

the crop. We man up. We drink whiskey. We fight fire.

“When something started happening to me, it was odd to recognize,” Granada said. “Others inside my circle could tell. But I was the last person in my circle to come forward. Hopefully I’ll be able to get some therapy and treatment and start another life.”

It’s not known to which Senate committee SB 376 will go next. Lawmakers currently are in an interim session, and the regular session does not begin until Jan. 9. The deadline for approving final drafts of general bills and joint resolutions is 5 p.m. Jan. 5.