

demonstrate by a preponderance of the evidence that actual events of employment were a substantial cause of the injury. “Substantial cause” is defined as 35-40 percent of the causation from all sources combined.

- d) The employee worked for the employer for at least a total of six months unless the employee’s psychiatric injury is caused by a sudden and extraordinary employment condition. (Labor Code §3208.3)
- 4) Creates, until January 1, 2025, a rebuttable presumption that a mental health condition or mental disability that results in a diagnosis of post-traumatic stress or mental health disorder is an occupational injury for the following peace officers who are primarily engaged in active law enforcement activities:
- a) Active firefighting members, whether volunteers, partly paid, or fully paid, of a local government or county, University of California, California State University, or the Department of Forestry and Fire Protection.
 - b) Active firefighting members of a fire department that serves a United States Department of Defense installation and who are certified by the Department of Defense as meeting its standards for firefighters.
 - c) Active firefighting members of a fire department that serves a National Aeronautics and Space Administration installation.
 - d) Sheriffs, undersheriffs, deputy sheriffs, police chiefs, police officers, and municipal law enforcement inspectors.
 - e) Attorney General and special agents and investigators of the Department of Justice.
 - f) Members of the California Highway Patrol, University of California Police Department, and California State University Police Department.
 - g) Members of a community college police department and school district police departments.
 - h) Members of an arson investigation unit.
 - i) Parole officers and correctional officers.
 - j) Fire and rescue services coordinators who work for the Office of Emergency Services. (Labor Code §3212.15)

This bill:

- 1) Extends the sunset to January 1, 2032, for the presumption that a diagnosis of PTSI is occupational and therefore covered by workers’ compensation.
- 2) Expands the PTSI workers’ compensation presumption to the following:
 - a) Active, volunteer, partly paid, and fully paid firefighters of the Department of State Hospitals, Department of Developmental Services, Military Department, and Department of Veterans Affairs.
 - b) Volunteer fire wardens summoned by the Department of Forestry and Fire Protection to assist in suppressing a forest fire.
 - c) Firefighter and security peace officers of the Military Department.
 - d) Members of the Office of Correctional Safety of the Department of Corrections and Rehabilitation provided their primary duties are investigation and apprehension.
 - e) Deputized employees of the Department of Fish and Wildlife designated by the director.
 - f) Peace officers of the Department of Parks and Recreation.
 - g) Director, peace officers, and voluntary fire wardens of the Department of Forestry and Fire Protection.
 - h) Director and peace officers of the Department of Alcoholic and Beverage Control.

- i) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair.
 - j) Chief, deputy chief, supervising investigators, and investigators of the Office of Protective Services of the Department of Developmental Services.
 - k) Chief, deputy chief, supervising investigators, and investigators of the Office of Protective Services of the Department of State Hospitals.
 - l) Medical directors, hospital administrators, hospital directors, chief of police services, or other hospital employees appointed as officers of the Department of State Hospitals or Department of Developmental Services.
 - m) Chief, deputy chief, supervising investigators, and investigators of the Office of Law Enforcement Support of the Health and Human Services Agency.
 - n) Chief, assistant chief, and all security and safety officers of museum security and safety of Exposition Park.
 - o) Enforcement officers of the Department of Cannabis Control.
 - p) Chief and all investigators of the Department of Consumer Affairs and investigators of the Dental Board of California.
 - q) Director, deputy director, investigations director, field investigation branch chief, and investigators of the Department of Motor Vehicles.
 - r) State Fire Marshal and assistant or deputy state fire marshals.
 - s) Chief and inspectors of the Food and Drug Branch of the Department of Public Health.
 - t) Chief and Coordinators of the Law Enforcement Branch of the Office of Emergency Services.
 - u) Deputy Director for Security and all lottery security personnel at the California State Lottery.
 - v) Security officers of the Department of Justice.
 - w) Investigators of the following Departments, provided their primary duty is enforcement of the law within their respective jurisdictions:
 - i) California Horse Racing Board
 - ii) Contractors' State License Board Special Investigations Unit
 - iii) Division of Labor Standards Enforcement
 - iv) Department of Health Care Services
 - v) Department of Financial Protection and Innovation
 - vi) Department of Managed Health Care
 - vii) Department of Public Health
 - viii) Department of Social Services
 - ix) Department of Toxic Substances Control
 - x) Employment Development Department Investigation Division
 - xi) Franchise Tax Board
 - xii) Office of the Controller
 - xiii) Office of the Secretary of State
 - xiv) Office of Statewide Health Planning and Development, now the Department of Health Care Access and Information
 - xv) Public Employees Retirement System
- 3) Expands the PTSI workers' compensation presumption to additionally include public safety dispatchers, public safety telecommunicators, and emergency response communication employees employed by a public safety agency whose primary responsibility is to receive, process, transmit, or dispatch emergency and nonemergency calls for law enforcement, fire, emergency medical, and other public safety services by telephone, radio, or another communication device, and includes individuals who supervise those who perform these

functions.

- 4) Specifies the provisions of this bill are effective for injuries occurring on or after January 1, 2024.

COMMENTS

1. Need for this bill?

According to the author, “California’s public emergency responders are uniquely exposed to emotional and mental impacts associated with the life-threatening and catastrophic events they experience while on duty, making their careers some of the most stressful occupations in the country. SB 542 (Stern, Chapter 390, Statutes of 2019) established a rebuttable presumption for [PTSI] within the workers’ compensation system for certain classes of public safety workers, including firefighters and law enforcement officers. This presumption is due to sunset on January 1, 2025, meaning the sunset must be extended to ensure that the public safety officers currently covered by the presumption maintain access into the future.

In addition, while it is well documented that firefighters and law enforcement personnel work in jobs with severely heightened levels of stress and regularly exposed to traumatic experiences, they are not the only members of the public safety workforce to do so. Others who work behind the scenes to take the 911 calls are also confronted with horrific events such as shootings, fires, deadly accidents, and other serious, traumatic experiences. Public safety dispatchers are tasked with calming frightened or injured individuals so that they can obtain necessary information, and frequently remain on the line to speak with those individuals while emergency services are on the way. Dispatchers experience many of the same traumas as the firefighters and law enforcement officers that they assist, but they do not enjoy the same protections against those hazards.”

2. Workers’ Compensation Presumptions

When the Legislature has considered presumptions within the workers’ compensation system, it has created two types: disputable presumptions and rebuttable presumptions, which shift the burden of proof in an injury claim from the employee to the employer. If an injury is covered by either presumption, the employer, in most cases, carries a larger burden to prove the injury is unrelated to work. With certain occupations, such as firefighters and peace officers, where employees can be exposed to more types of injury than in other occupations, the law provides presumptions for injury and illness more likely to be caused by work-related exposure.

The Commission on Health and Safety and Workers’ Compensation, in its 2021 annual report, stated “Recent research has indicated that workers’ compensation claims filed by firefighters and peace officers are more likely to involve [PTSI] than the average worker in California, and mental health stigma and fear of professional consequences were identified as a major barrier to care-seeking for first responders.” The commission subsequently recommended the following:

- Continued evaluation and monitoring of the impact of the temporary presumptions related to COVID-19.
- Continued study of the impact of extending presumptions for conditions such as [PTSI] for public safety employees and cancer for non-public safety officers.

- Consider the findings of the CHSWC study by RAND, “Posttraumatic Stress in California’s Workers’ Compensation System-A Study of Mental Health Presumptions for Firefighters and Peace Officers Under Senate Bill 542¹”, which in part supports rationale for [PTSI] presumption, but also raises concerns about costs to state and local government.

3. Proponent Arguments:

A co-sponsor, the California Professional Firefighters, state council of the International Association of Fire Fighters, representing over 30,000 career firefighting and emergency medical service personnel statewide, states “Firefighting and law enforcement have been determined to be two of the most stressful occupations, with post-traumatic stress impacting a disproportionately high number of public safety officers due to the nature of their work. Repeated and chronic exposure to traumatic events and critical incidents increases the risk for post-traumatic stress and other stress-induced symptoms.

Firefighters and law enforcement officers regularly respond to structure fires, massive wildfires, stabbings, gun battles and shootings, domestic violence incidents, terrorist acts, automobile accidents, airplane crashes and earthquakes, just to name a few. Today, a firefighter’s or law enforcement officer’s occupational stress is heightened in the face of California’s “new normal” – an increase in active shooter events, as well as wildland and wildland-urban interface fires, which continue to annually increase as hot, dry, and wind-whipped conditions persist.

However, while it is well documented that firefighters and law enforcement personnel work in jobs with severely heightened levels of stress and are regularly exposed to traumatic experiences, they are not the only members of the public safety workforce to do so. Public safety dispatchers are on the receiving end of a call for help. They are tasked with calming frightened or injured individuals so that they can obtain necessary information, and frequently remain on the line to speak with those individuals while emergency services are on the way.

Firefighters, law enforcement personnel and public safety dispatchers are all uniquely susceptible to the emotional and mental impacts of these stressors, including:

- Constant exposure to catastrophic events;
- Life and death decision making;
- Erratic and unusual sleep patterns;
- Increasingly large workload; and
- Long separation from family — extended shifts, mutual aid strike teams, back-to-back wildfire responses.

SB 623 will extend the sunset date of the existing presumption from January 1, 2025, to January 1, 2032, ensuring that those who require this life-saving treatment will still be able to

¹ Quigley, Denise D., Michael Dworsky, Nabeel Qureshi, J. Scott Ashwood, Kelsey O'Hollaren, and Lisa S. Meredith, Posttraumatic Stress in California's Workers' Compensation System: A Study of Mental Health Presumptions for Firefighters and Peace Officers Under Senate Bill 542. Santa Monica, CA: RAND Corporation, 2021. https://www.rand.org/pubs/research_reports/RRA1391-1.html

access it through the workers' compensation system. Additionally, by expanding the coverage of the presumption to certain classes of public safety employees that were not originally included in the law, SB 623 will ensure that all those who work to protect the citizens of California are able to access care for injuries they sustain in the course of their employment.

By extending the sunset by [seven] years, this bill will allow time for further analysis of the benefit and effectiveness of the law and certainly demonstrate the value of the PTSI presumption to the men and women of the fire service.

It is imperative that the current presumption afforded to many firefighters and law enforcement personnel across the state be maintained and that the protections be extended to the additional members of public safety identified in this bill. This will help facilitate timely treatment for a firefighter, law enforcement officer or public safety dispatchers who is suffering with a PTSI and in doing so, enables a quick recovery and return to work."

4. Opponent Arguments:

The California Association of Joint Powers Authorities, California Coalition on Workers' Compensation, and Public Risk Innovation, Solutions, and Management state "California's workers' compensation system treats psychiatric injuries somewhat differently than physical injuries or illnesses, and that is because the rules acknowledge that psychiatric injury tends to be far more complex in terms of causation. While work can be a stressor in the life of an employee, far more of our lives are lived outside of the workplace and psychiatric injuries are subjective in terms of causation. Because of this, California law requires that "the actual events of employment" be the predominant cause (51%) of psychiatric injury. If the psychiatric injury is the result of violence or a violent event in the workplace, then the threshold is lower (35-40%). California law also protects employers from claims of psychiatric injury if a good faith, nondiscriminatory personnel action (bad review, termination, etc.) was largely responsible for the psychiatric injury. Psychiatric injuries have been repeatedly used as a center of fraud and abuse in California's workers' compensation system, and the protections in existing law are there for a reason. Undermining those protections with a presumption without any evidence of a problem only serves to open the door to abuse and fraud."

These opponents further state "It is simply premature to propose any expansion of the current presumption until [an] analysis has been completed on the original legislation. There is no objective basis to evaluate the operation of current law, the need for this expansion, or the impact of stripping away protections for taxpayer-funded public entities. It is clear that SB 623 would drive up costs for struggling public entities that are trying to provide emergency services, but it's not at all clear that a presumption is needed for these workers to fairly access the workers' compensation system.

5. Prior Legislation:

SB 284 (Stern, 2022) would have expanded the existing PTSI rebuttable presumption to the same classes of public first responders as this bill. SB 284 did not include a sunset extension. The bill was vetoed by the Governor, stating "*Current law, applicable for injuries occurring on or after 2020 and to be repealed on 1/1/2025, allows a rebuttable presumption of PTSD injury to apply for specified classes of active firefighting members, peace officers, and fire*

and rescue service coordinators who work for the Office of Emergency Services. This presumption is a careful step acknowledging the increasingly hazardous conditions to which the subject class members are exposed, balanced against the principles of workers' compensation law that dictates conservatism with respect to presumptions and psychiatric injuries. As such, it was intended to allow for the study of the benefits and effectiveness of the PTSD presumption.

Expanding coverage of the PTSD injury presumption to significant classes of employees before any studies have been conducted on the existing class for whom the presumption is temporarily in place could set a dangerous precedent that has the potential to destabilize the workers' compensation system going forward, as stakeholders push for similarly unsubstantiated presumptions.”

AB 597 (Rodriguez, 2023) would, for injuries occurring on or after January 1, 2024, create a rebuttable presumption for emergency medical technicians and paramedics that PTSI is an occupational injury and covered under workers' compensation.

SB 542 (Stern – Chapter 390, Statutes of 2019) created the rebuttable presumption for specified peace officers that a diagnosis of PTSI is occupational and therefore covered by workers' compensation.

SUPPORT

California Professional Firefighters (co-sponsor)
California Statewide Law Enforcement Association (co-sponsor)
National Emergency Number Association, California Chapter (co-sponsor)
Peace Officers' Research Association of California (co-sponsor)
California Correctional Peace Officers Association (CCPOA)
CCPOA Benefit Trust Fund

OPPOSITION

California Association of Joint Powers Authorities
California Coalition on Workers' Compensation
Public Risk Innovation, Solutions, and Management

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