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THIRD READING

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Bill No: SB 623  
Author: Laird (D), et al.  
Amended: 3/20/23  
Vote: 21

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SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 4/12/23  
AYES: Cortese, Wilk, Durazo, Laird, Smallwood-Cuevas

SENATE APPROPRIATIONS COMMITTEE: 5-1, 5/18/23  
AYES: Portantino, Ashby, Bradford, Wahab, Wiener  
NOES: Seyarto  
NO VOTE RECORDED: Jones

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**SUBJECT:** Workers' compensation: post-traumatic stress disorder

**SOURCE:** California Chapter National Emergency Number Association  
California Professional Firefighters  
California Statewide Law Enforcement Association  
Peace Officers Research Association of California

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**DIGEST:** This bill extends the existing workers' compensation rebuttable presumption for specified peace officers that a diagnosis of post-traumatic stress injury (PTSI) is occupational, and therefore covered by workers' compensation. Additionally, this bill extends the PTSI rebuttable presumption to additional categories of peace officers, investigators, security officers, and dispatchers.

**ANALYSIS:**

Existing law:

- 1) Establishes a workers' compensation system that provides benefits to an employee who suffers from an injury or illness that arises out of and in the course of employment, regardless of fault. This system requires all employers to secure payment of benefits by either securing the consent of the Department of Industrial Relations to self-insure or by securing insurance against liability from

an insurance company authorized by the state.

- 2) Creates a series of presumptions of an occupational injury for peace and safety officers for the purposes of the workers' compensation system, which include heart disease, hernias, pneumonia, cancer, meningitis, tuberculosis, and biochemical illness. The compensation awarded for these injuries must include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by workers' compensation law. Peace officers whose principal duties are clerical, such as stenographers, telephone operators, and other office workers are excluded.
- 3) Provides that a psychiatric injury can be considered compensable within the workers' compensation system if:
  - a) The mental disorder causes disability or need for medical treatment, and it is diagnosed using the terminology and criteria of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Third Edition-Revised, or the terminology and diagnostic criteria of other psychiatric diagnostic manuals generally approved and accepted nationally by practitioners in the field of psychiatric medicine.
  - b) The employee can demonstrate by a preponderance of the evidence that actual events of employment were predominant as to all causes combined of the psychiatric injury.
  - c) In the case of employees whose injuries resulted from being a victim of a violent act or from direct exposure to a significant violent act, the employee shall be required to 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.
- 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.

This bill:

- 1) Extends the sunset to January 1, 2032, for the presumption that a diagnosis of PTSD is occupational and therefore covered by workers' compensation.
- 2) Expands the PTSD workers' compensation presumption to additional categories of peace officers, public investigators, public security officers, 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 non-emergency 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.
- 3) Specifies the provisions of this bill are effective for injuries occurring on or after January 1, 2024.

## Background

The Legislature has created certain presumptions within the workers' compensation system, which shift the burden of proof in an injury claim from the employee to the employer. If an injury is covered by a presumption, the employer 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 542", which in part supports rationale for [PTSI] presumption.

## Comments

*Purpose of 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.”

### **Related/Prior Legislation**

AB 597 (Rodriguez, 2023), for injuries occurring on or after January 1, 2024, creates a rebuttable presumption for emergency medical technicians and paramedics that PTSD is an occupational injury and covered under workers’ compensation. The bill is in the Assembly Committee on Insurance.

SB 284 (Stern, 2022) would have expanded the existing PTSD 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 Governor Newsom.

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

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, extending coverage of presumptive injuries to specified peace officers would likely result in increased workers compensation costs. The magnitude is unknown, and would depend on (1) the number of affected employees, and (2) the frequency of skin cancer claims that would become compensable as a result of the presumption’s expansion. Total annual costs to DFW and DPR could potentially exceed \$50,000 (General Fund). The Department of Industrial Relations would incur minor and absorbable administrative costs.

**SUPPORT:** (Verified 5/18/23)

California Chapter National Emergency Number Association (co-source)

California Professional Firefighters (co-source)  
California Statewide Law Enforcement Association (co-source)  
Peace Officers Research Association of California (co-source)  
California Correctional Peace Officers Association  
California Correctional Peace Officers Association Benefit Trust  
California Labor Federation, AFL-CIO

**OPPOSITION:** (Verified 5/18/23)

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

**ARGUMENTS IN SUPPORT:** The California Professional Firefighters state:

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... 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.

**ARGUMENTS IN OPPOSITION:** 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.

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