



State:

4 Out of 8 States That Considered PTSD Benefits Passed Legislation: Top [2017-06-15]

One year ago this week, Orlando police Officer Gerry Realin spent four hours removing dead bodies from Pulse Nightclub. Officers covered the 49 victims' bodies with white sheets. They used Sharpie markers to tally up the dead.

These days, the only time Realin can find peace is when he's [out on his paddleboard](#). Plagued by flashbacks, nightmares and depression, he hasn't gone back to work. The sight of a white sheet or a Sharpie is enough to trigger a flashback. He isn't ready to return to the streets, carrying a gun.

In that year out of work, Realin has not received wage-loss benefits. If his post-traumatic stress disorder had been accompanied by a physical injury, he might have. But Florida law prevents the dispensation of wage-loss benefits to workers with a so-called "mental-mental claim," a workers' compensation claim for a mental injury without a physical component.

Realin is trying to change that. He met with Sen. Victor Torres, D-Orlando, a retired police officer himself, to talk about the need for workers' compensation coverage for PTSD and other mental injuries induced by exposure to trauma.



Torres, in turn, introduced SB 1088, a bill that would have given first responders access to those benefits. Realin's wife went door-to-door at the state Capitol asking senators to support the bill. Realin's attorney, Paolo Longo, spoke widely about it to the press, saying Florida's current system creates a public safety issue by putting unstable officers on the street. Several other lawmakers introduced similar bills.

But none of them passed. Legislators played politics, Longo said, attaching other items to the proposals to decrease their likelihood of passing.

"They took the cowards' way out," Longo said. "It couldn't be more disappointing that the Legislature couldn't come together on an issue as easy as benefits for first responders."

Eight states, including Florida, considered bills this year that would have eased first responders' access to mental health benefits. Of those, four approved measures to get traumatized first responders help — three through the workers' compensation system, and one through other means. The other four states rejected the bills.

#### Colorado: yes

In Colorado, lawmakers have been toying with different methods of easing first responders' access to such benefits for years.

Mental-mental claims are legal in Colorado, meaning people who suffer PTSD from a work-related event can most likely collect benefits for it. But the statute legalizing mental-mental claims carves out an exception: The trauma cannot be linked to ordinary events; that is, events that would happen over the course of a worker's usual day.

For first responders who encounter trauma on the job regularly as part of their job duties, that requirement creates a roadblock.

So this year, a bipartisan foursome proposed eliminating that roadblock in a bill drafted by an appellate attorney working with Colorado's state fund, Pinnacol Assurance. After a "spirited" committee hearing in the Republican-controlled Senate, HB 1229 ended up passing both houses, Pinnacol vice president of communications and public affairs Edie Sonn said.

The bill also specifies that any worker who is attacked or witnesses a violent attack can receive workers' compensation benefits for mental impairments diagnosed by a licensed psychiatrist or psychologist. Gov. John Hickenlooper signed it into law June 5.

"Rather than specifying the type of worker, the bill specifies the type of exposure, and it does so very narrowly," Sonn said.

Sonn said Pinnacol analyzed its own stock of mental-mental claims over the past 10 years and found that the average payout was \$1,000. The carrier made sure to relay that information to business groups and towns when shopping the bill's language around to gain support, Sonn said.

The only stakeholders who raised significant concerns were hospital executives who were worried that the bill opened the door for emergency-room workers to file PTSD claims.

"We made it clear to them, this is not just seeing blood. It has to be a traumatic incident," Sonn said. "And we had a couple of responses for them. One was: To be perfectly honest, for anyone who either has a gun, like a peace officer or corrections officer, or who has access to sharp implements — if they truly have a mental issue that is related to their employment, don't you want to get them help? Isn't that in the best interest of all involved?"

#### Connecticut: no

Rick Hart, director of legislative and political affairs for the Uniformed Professional Firefighters Association of Connecticut, said he didn't want the Sandy Hook Elementary School shooting to be the primary example of PTSD used in discussions of SB 763.

Nonetheless, the event loomed large over discussions of the bill, which would have allowed first responders to file workers' compensation claims for PTSD in a state where mental-mental claims are illegal. SB 763 ended up dying in committee, stalling in February after a contentious public hearing.

Officers who responded to the scene submitted graphic testimony to the hearing about their own experiences with PTSD, many of them connected to the Sandy Hook shooting.

"The guilt of that day as well as the vision of it, haunts me," said State Trooper Christopher Kick, who responded to the shooting and took a leave from work last year on the event's four-year anniversary, citing severe PTSD. "If you wish to join me in these realities, carry a teacher, bloodied from gunshot wounds, into your car, the same car that you still drive today, and then carry an 8-year-old child to an ambulance that you know will not survive, and then run back into a building and look for more."

Connecticut municipalities took a muted approach in their opposition to the bill, but nonetheless came out in force to say it would place too much of a strain on their already stretched-thin budgets.

"Given the state's ongoing fiscal challenges, and recent and anticipated cuts in state aid to municipalities, (the Connecticut Council of Small Towns) urges lawmakers to take a hard line in opposing any new or expanded unfunded mandate," COST's lobbyist, Kathryn Dube, wrote in prepared testimony to be read during the Feb. 9 hearing before the

Senate Public Safety and Security Committee. "Any additional cost burdens placed on municipalities at this time will directly result in property tax increases and/or cuts in critical programs and staff."

Ultimately, both SB 763 and another mental-health bill, SB 27, which would have legalized mental-mental claims in Connecticut, did not gain enough momentum to pass in the Senate.

A slim chance remains that the PTSD language could be written into the budget, as budget negotiations are ongoing until June 30.

But Hart doubts that.

"I really think that we're going to need legislation passed, a stand-alone bill that identifies a funding stream and the parameters as to who is covered, how it's covered and how the diagnosis is reached, the clinicians that are acceptable to the state and municipalities. That all has to be worked out," Hart said. "So I think this year is not the year."

#### **Minnesota: no**

In Minnesota, a legislator who is a former police officer crusaded to get a bill passed linking first responders' PTSD to work, but was thwarted again this year by opposition from the Minnesota Chamber of Commerce.

The back-and-forth played out publicly in a battle of the op-eds, with Sen. Dan Schoen, D-St. Paul Park, writing a letter in the final hours of the legislative session exhorting constituents to call their lawmakers and support SF 1293.

He was trying hard to get the legislation passed, he told them, but the Minnesota Chamber of Commerce was quashing support for the bill year after year.

"Unfortunately, corporate interests at the Capitol are working against police officers, firefighters and other public safety officers," Schoen wrote.

The chamber shot back in an op-ed days later, saying that automatically linking first responders' PTSD diagnoses to work would clear the way for fraud.

"Under existing law, the vast majority of injured workers seeking compensation need to present evidence to the court showing that they were injured on the job," Cam Winton, the director of labor/management policy at the Minnesota Chamber of Commerce, wrote. "The senator's bill would undermine that key element of the workers' compensation process, making it difficult to know if a given case of PTSD arose from work or, for example, from prior military service or another life situation."

Ultimately, SF 1293 got only to its second reading in the House before the Minnesota Legislature turned its attention to budget matters. It passed the Senate 66-0 on May 1.

#### **New Mexico: no**

In the Land of Enchantment, the Legislature signed off on a proposal to link firefighters' PTSD diagnoses to work. But HB 157 didn't make it past Gov. Susana Martinez's desk; she vetoed it on April 6.

"As a former prosecutor, I support our brave first responders who protect our safety and well-being without regard to their own," Martinez wrote. "(But) firefighters are already able to seek and receive disability benefits for post-traumatic stress disorder through New Mexico's workers' compensation laws."

"This bill is well-intentioned in its goal," she continued. "But it places too great a burden on our cities and counties."

HB 157 passed the House 54-14 and the Senate 25-11.

In a fiscal note attached to the measure, analyst Eric Chenier wrote that the Municipal League's primary concern about the presumption.

"The bill could result in increased workers' compensation costs to governmental entities that employ full-time non-volunteer firefighters resulting from an increase in the frequency in claims from firefighters claiming to suffer from PTSD," the Municipal League said in a statement Chenier included.

#### **South Carolina: yes**

Facing an "uphill battle" in trying to get a skeptical legislature to sign off on granting PTSD benefits to first responders, South Carolina lawmakers, lobbyists and interest groups began discussing alternate ways to help traumatized firefighters and police officers.

They ultimately came up with introducing a \$500,000 proviso, or single-term budget item, to fund two organizations geared toward helping first responders recover from trauma.

The organizations, the Firefighters Assistance and Support Team (FAST) and the South Carolina Law Enforcement Assistance Program (SCLEAP), connect first responders with peer support and informal counseling after traumatic events. If a first responder needs additional care, the groups refer them to mental health treatment by licensed professionals and pay any co-payments required by the injured firefighter's health insurer.

"When these critical incidents happen — for instance, when somebody gets run over by a fire truck, which just happened — the FAST works with the firefighters affected by that to try to prevent a suicide or PTSD becoming debilitating," said Robert Stewart, a lobbyist for the South Carolina Fraternal Order of Police. "It's the same thing in law enforcement; if there's an officer killed in the line of duty, SCLEAP works with them."

Half of the \$500,000 goes to FAST, and the other half goes to SCLEAP, Stewart said. The proviso was first inserted into the 2016-17 budget, and it was approved for the 2017-18 budget as well.

After these two years, lawmakers will analyze the results of FAST's and SCLEAP's outreach to traumatized first responders and decide whether to keep funding the programs or pursue another avenue to help firefighters and police officers, Stewart said.

"I think this is a way to provide better treatment and quicker treatment, and you do it for a whole lot cheaper," said Sen. Shane Massey, R-Edgefield, who introduced the proviso. He also pointed out that first responders could choose their treatment provider under this method, rather than waiting for their employer to choose.

#### **Texas: yes**

When Rep. John Wray, R-Waxahachie, introduced a bill to add post-traumatic stress disorder to the list of illnesses Texas' workers' compensation program covers, he left no stone unturned when establishing that the measure had bipartisan support.

Wray solicited 45 cosponsors for HB 1983, which passed the Legislature unanimously and was signed into law June 1. The bill goes into effect Sept. 1.

Sixty percent of the cosponsors were Republicans; the other 40%, Democrats.

"PTSD can destroy careers, family relationships and the lives of those impacted," Wray told the press in an early media push for the bill, which was also strongly supported by first responders.

First responders focused their lobbying efforts on the amount of suicides in the firefighting and police communities. More police officers committed suicide in 2015 than died on duty or in car accidents, Texas Municipal Police Association Executive Director Mitch Landry told lawmakers. And six Texas firefighters have committed suicide in the past year and a half, the president of the Texas State Association of Firefighters added.

"We see a lot of things throughout our careers that are very disturbing — children tragically killed, people burned, people killed in car accidents, decapitations, the situation in Dallas with the ambush of those five officers last year," retired Houston patrol Sgt. Chris Jones told WorkCompCentral in March. "You take those things home. They're not easily forgotten. Can you imagine being next to one of those officers who was gunned down and killed?"

#### **Vermont: yes**

After much trial and error, the Green Mountain State eked out enough support to pass a proposal linking first responders' PTSD to work and authorizing mental-mental claims. In what came as a surprise to some, the historically blue state did not cover workers' compensation claims for work-related mental ailments unaccompanied by a physical injury.

HB 197, by Rep. Sarah Copeland-Hanzas, D-Bradford, caused great controversy on the floor of the House. House Republicans threatened to walk out of the vote after the bill just barely made it through three committees, [vtdigger.com reported](#). The bill passed the chamber on a voice vote after four hours of debate.

But it didn't meet procedural deadlines to make it to the Senate floor, and it threatened to die entirely before Senator Pro Tempore Tim Ashe, D-Chittendon, teamed up with senators to work the HB 197 language into an insurance bill that had met the deadlines, SB 56.

SB 56 gained final approval and was delivered to the governor's desk Friday.