

REFERENCE TITLE: PTSD; workers' compensation; presumption

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

## **HB 2501**

Introduced by  
Representatives Boyer: Payne, Shope

AN ACT

AMENDING SECTIONS 23-901 AND 23-1061, ARIZONA REVISED STATUTES; AMENDING TITLE 23, CHAPTER 6, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-1106; AMENDING SECTION 38-672, ARIZONA REVISED STATUTES; REPEALING LAWS 2016, CHAPTER 240, SECTION 2; RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-901, Arizona Revised Statutes, is amended to  
3 read:

4 23-901. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Award" means the finding or decision of an administrative law  
7 judge or the commission as to the amount of compensation or benefit due an  
8 injured employee or the dependents of a deceased employee.

9 2. "Client" means an individual, association, company, firm,  
10 partnership, corporation or any other legally recognized entity that is  
11 subject to this chapter and that enters into a professional employer  
12 agreement with a professional employer organization.

13 3. "Co-employee" means every person employed by an injured  
14 employee's employer.

15 4. "Commission" means the industrial commission of Arizona.

16 5. "Compensation" means the compensation and benefits provided by  
17 this chapter.

18 6. "Employee", "workman", "worker" and "operative" means:

19 (a) Every person in the service of the state or a county, city,  
20 town, municipal corporation or school district, including regular members  
21 of lawfully constituted police and fire departments of cities and towns,  
22 whether by election, appointment or contract of hire.

23 (b) Every person in the service of any employer subject to this  
24 chapter, including aliens and minors legally or illegally permitted to  
25 work for hire, but not including a person whose employment is both:

26 (i) Casual.

27 (ii) Not in the usual course of the trade, business or occupation  
28 of the employer.

29 (c) Lessees of mining property and the lessees' employees and  
30 contractors engaged in the performance of work that is a part of the  
31 business conducted by the lessor and over which the lessor retains  
32 supervision or control are within the meaning of this paragraph employees  
33 of the lessor, and are deemed to be drawing wages as are usually paid  
34 employees for similar work. The lessor may deduct from the proceeds of  
35 ores mined by the lessees the premium required by this chapter to be paid  
36 for such employees.

37 (d) Regular members of volunteer fire departments organized  
38 pursuant to title 48, chapter 5, article 1, regular ~~firemen~~ **FIREFIGHTERS**  
39 of any volunteer fire department, including private fire protection  
40 service organizations, organized pursuant to title 10, chapters 24 through  
41 40, volunteer ~~firemen~~ **FIREFIGHTERS** serving as members of a fire department  
42 of any incorporated city or town or an unincorporated area without pay or  
43 without full pay and on a part-time basis, and voluntary ~~politicemen~~ **PEACE**  
44 **OFFICERS** and volunteer ~~firemen~~ **FIREFIGHTERS** serving in any incorporated  
45 city, town or unincorporated area without pay or without full pay and on a

1 part-time basis, are deemed to be employees, but for the purposes of this  
2 chapter, the basis for computing wages for premium payments and  
3 compensation benefits for regular members of volunteer fire departments  
4 organized pursuant to title 48, chapter 5, article 1, or organized  
5 pursuant to title 10, chapters 24 through 40, regular members of any  
6 private fire protection service organization, volunteer ~~firemen~~  
7 ~~FIREFIGHTERS~~ and volunteer ~~police~~ ~~PEACE OFFICERS~~ of these departments  
8 or organizations shall be the salary equal to the beginning salary of the  
9 same rank or grade in the full-time service with the city, town, volunteer  
10 fire department or private fire protection service organization, provided  
11 if there is no full-time equivalent then the salary equivalent shall be as  
12 determined by resolution of the governing body of the city, town or  
13 volunteer fire department or corporation.

14 (e) Members of the department of public safety reserve, organized  
15 pursuant to section 41-1715, are deemed to be employees. For the purposes  
16 of this chapter, the basis for computing wages for premium payments and  
17 compensation benefits for a member of the department of public safety  
18 reserve who is a peace officer shall be the salary received by officers of  
19 the department of public safety for the officers' first month of regular  
20 duty as an officer. For members of the department of public safety  
21 reserve who are not peace officers, the basis for computing premiums and  
22 compensation benefits is four hundred dollars a month.

23 (f) Any person placed in on-the-job evaluation or in on-the-job  
24 training under the department of economic security's temporary assistance  
25 for needy families program or vocational rehabilitation program shall be  
26 deemed to be an employee of the department for the purpose of coverage  
27 under the state workers' compensation laws only. The basis for computing  
28 premium payments and compensation benefits shall be two hundred dollars  
29 per month. Any person receiving vocational rehabilitation services under  
30 the department of economic security's vocational rehabilitation program  
31 whose major evaluation or training activity is academic, whether as an  
32 enrolled attending student or by correspondence, or who is confined to a  
33 hospital or penal institution, shall not be deemed to be an employee of  
34 the department for any purpose.

35 (g) Regular members of a volunteer sheriff's reserve, which may be  
36 established by resolution of the county board of supervisors, to assist  
37 the sheriff in the performance of the sheriff's official duties. A roster  
38 of the current members shall monthly be certified to the clerk of the  
39 board of supervisors by the sheriff and shall not exceed the maximum  
40 number authorized by the board. Certified members of an authorized  
41 volunteer sheriff's reserve shall be deemed to be employees of the county  
42 for the purpose of coverage under the Arizona workers' compensation laws  
43 and occupational disease disability laws and shall be entitled to receive  
44 the benefits of these laws for any compensable injuries or disabling  
45 conditions that arise out of and occur in the course of the performance of

1 duties authorized and directed by the sheriff. Compensation benefits and  
 2 premium payments shall be based on the salary received by a regular  
 3 full-time deputy sheriff of the county involved for the first month of  
 4 regular patrol duty as an officer for each certified member of a volunteer  
 5 sheriff's reserve. This subdivision does not provide compensation  
 6 coverage for any member of a sheriff's posse who is not a certified member  
 7 of an authorized volunteer sheriff's reserve except as a participant in a  
 8 search and rescue mission or a search and rescue training mission.

9 (h) A working member of a partnership may be deemed to be an  
 10 employee entitled to the benefits provided by this chapter on written  
 11 acceptance, by endorsement, at the discretion of the insurance carrier for  
 12 the partnership of an application for coverage by the working partner.  
 13 The basis for computing premium payments and compensation benefits for the  
 14 working partner shall be an assumed average monthly wage of not less than  
 15 six hundred dollars nor more than the maximum wage provided in section  
 16 23-1041 and is subject to the discretionary approval of the insurance  
 17 carrier. Any compensation for permanent partial or permanent total  
 18 disability payable to the partner shall be computed on the lesser of the  
 19 assumed monthly wage agreed to by the insurance carrier on the acceptance  
 20 of the application for coverage or the actual average monthly wage  
 21 received by the partner at the time of injury.

22 (i) The sole proprietor of a business subject to this chapter may  
 23 be deemed to be an employee entitled to the benefits provided by this  
 24 chapter on written acceptance, by endorsement, at the discretion of the  
 25 insurance carrier of an application for coverage by the sole proprietor.  
 26 The basis for computing premium payments and compensation benefits for the  
 27 sole proprietor shall be an assumed average monthly wage of not less than  
 28 six hundred dollars nor more than the maximum wage provided by section  
 29 23-1041 and is subject to the discretionary approval of the insurance  
 30 carrier. Any compensation for permanent partial or permanent total  
 31 disability payable to the sole proprietor shall be computed on the lesser  
 32 of the assumed monthly wage agreed to by the insurance carrier on the  
 33 acceptance of the application for coverage or the actual average monthly  
 34 wage received by the sole proprietor at the time of injury.

35 (j) A member of the Arizona national guard, Arizona state guard or  
 36 unorganized militia shall be deemed a state employee and entitled to  
 37 coverage under the Arizona workers' compensation law at all times while  
 38 the member is receiving the payment of the member's military salary from  
 39 this state under competent military orders or on order of the governor.  
 40 Compensation benefits shall be based on the monthly military pay rate to  
 41 which the member is entitled at the time of injury, but not less than a  
 42 salary of four hundred dollars per month, nor more than the maximum  
 43 provided by the workers' compensation law. Arizona compensation benefits  
 44 shall not inure to a member compensable under federal law.

1 (k) Certified ambulance drivers and attendants who serve without  
2 pay or without full pay on a part-time basis are deemed to be employees  
3 and entitled to the benefits provided by this chapter and the basis for  
4 computing wages for premium payments and compensation benefits for  
5 certified ambulance personnel shall be four hundred dollars per month.

6 (l) Volunteer workers of a licensed health care institution may be  
7 deemed to be employees and entitled to the benefits provided by this  
8 chapter on written acceptance by the insurance carrier of an application  
9 by the health care institution for coverage of such volunteers. The basis  
10 for computing wages for premium payments and compensation benefits for  
11 volunteers shall be four hundred dollars per month.

12 (m) Personnel who participate in a search or rescue operation or a  
13 search or rescue training operation that carries a mission identifier  
14 assigned by the division of emergency management as provided in section  
15 35-192.01 and who serve without compensation as volunteer state employees.  
16 The basis for computation of wages for premium purposes and compensation  
17 benefits is the total volunteer man-hours recorded by the division of  
18 emergency management in a given quarter multiplied by the amount  
19 determined by the appropriate risk management formula.

20 (n) Personnel who participate in emergency management training,  
21 exercises or drills that are duly enrolled or registered with the division  
22 of emergency management or any political subdivision as provided in  
23 section 26-314, subsection C and who serve without compensation as  
24 volunteer state employees. The basis for computation of wages for premium  
25 purposes and compensation benefits is the total volunteer man-hours  
26 recorded by the division of emergency management or political subdivision  
27 during a given training session, exercise or drill multiplied by the  
28 amount determined by the appropriate risk management formula.

29 (o) Regular members of the Arizona game and fish department  
30 reserve, organized pursuant to section 17-214. The basis for computing  
31 wages for premium payments and compensation benefits for a member of the  
32 reserve is the salary received by game rangers and wildlife managers of  
33 the Arizona game and fish department for the game rangers' and wildlife  
34 managers' first month of regular duty.

35 (p) Every person employed pursuant to a professional employer  
36 agreement.

37 7. "General order" means an order applied generally throughout the  
38 state to all persons under jurisdiction of the commission.

39 8. "Heart-related or perivascular injury, illness or death" means  
40 myocardial infarction, coronary thrombosis or any other similar sudden,  
41 violent or acute process involving the heart or perivascular system, or  
42 any death resulting therefrom, and any weakness, disease or other  
43 condition of the heart or perivascular system, or any death resulting  
44 therefrom.

1           9. "Insurance carrier" means every insurance carrier duly  
2 authorized by the director of insurance to write workers' compensation or  
3 occupational disease compensation insurance in this state.

4           10. "Interested party" means the employer, the employee, or if the  
5 employee is deceased, the employee's estate, the surviving spouse or  
6 dependents, the commission, the insurance carrier or their representative.

7           11. "Mental injury, illness or condition" means any mental,  
8 emotional, psychotic or neurotic injury, illness or condition.

9           12. "Order" means and includes any rule, direction, requirement,  
10 standard, determination or decision other than an award or a directive by  
11 the commission or an administrative law judge relative to any entitlement  
12 to compensation benefits, or to the amount ~~thereof~~ **OF COMPENSATION**  
13 **BENEFITS**, and any procedural ruling relative to the processing or  
14 adjudicating of a compensation matter.

15           13. "Personal injury by accident arising out of and in the course  
16 of employment" means any of the following:

17           (a) Personal injury by accident arising out of and in the course of  
18 employment.

19           (b) An injury caused by the wilful act of a third person directed  
20 against an employee because of the employee's employment, but does not  
21 include a disease unless resulting from the injury.

22           (c) An occupational disease that is due to causes and conditions  
23 characteristic of and peculiar to a particular trade, occupation, process  
24 or employment, and not the ordinary diseases to which the general public  
25 is exposed, and subject to **ANY OF THE FOLLOWING:**

26           (i) ~~Section 23-901.01. or,~~

27           (ii) For heart-related, perivascular or pulmonary cases, section  
28 23-1105.

29           (iii) **FOR POSTTRAUMATIC STRESS DISORDER CASES, SECTION 23-1106.**

30           14. **"POSTTRAUMATIC STRESS DISORDER" HAS THE SAME MEANING PRESCRIBED**  
31 **IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF**  
32 **MENTAL DISORDERS FOR THE AMERICAN PSYCHIATRIC ASSOCIATION.**

33           ~~14.~~ 15. "Professional employer agreement" means a written contract  
34 between a client and a professional employer organization:

35           (a) In which the professional employer organization expressly  
36 agrees to co-employ all or a majority of the employees providing services  
37 for the client. In determining whether the professional employer  
38 organization employs all or a majority of the employees of a client, any  
39 person employed pursuant to the terms of the professional employer  
40 agreement after the initial placement of client employees on the payroll  
41 of the professional employer organization shall be included.

42           (b) That is intended to be ongoing rather than temporary in nature.

1 (c) In which employer responsibilities for worksite employees,  
2 including hiring, firing and disciplining, are expressly allocated between  
3 the professional employer organization and the client in the agreement.

4 ~~15.~~ 16. "Professional employer organization" means any person  
5 engaged in the business of providing professional employer services.  
6 Professional employer organization does not include a temporary help firm  
7 or an employment agency.

8 ~~16.~~ 17. "Professional employer services" means the service of  
9 entering into co-employment relationships under this chapter to which all  
10 or a majority of the employees providing services to a client or to a  
11 division or work unit of a client are covered employees.

12 ~~17.~~ 18. "Special order" means an order other than a general order.

13 ~~18.~~ 19. "Weakness, disease or other condition of the heart or  
14 perivascular system" means arteriosclerotic heart disease, cerebral  
15 vascular disease, peripheral vascular disease, cardiovascular disease,  
16 angina pectoris, congestive heart trouble, coronary insufficiency,  
17 ischemia and all other similar weaknesses, diseases and conditions, and  
18 also previous episodes or instances of myocardial infarction, coronary  
19 thrombosis or any similar sudden, violent or acute process involving the  
20 heart or perivascular system.

21 ~~19.~~ 20. "Workers' compensation" means workmen's compensation as  
22 used in article XVIII, section 8, Constitution of Arizona.

23 Sec. 2. Section 23-1061, Arizona Revised Statutes, is amended to  
24 read:

25 ~~23-1061.~~ 23-1061. Notice of accident; form of notice; claim for  
26 compensation; reopening; payment of compensation

27 A. Notwithstanding section 23-908, subsection E, ~~no~~ A claim for  
28 compensation ~~shall be~~ IS NOT valid or enforceable unless the claim is  
29 filed with the commission by the employee, or if resulting in death by the  
30 parties entitled to compensation, or someone on their behalf, in writing  
31 within one year after the injury occurred or the right thereto accrued.  
32 The time for filing a compensation claim begins to run when the injury  
33 becomes manifest or when the claimant knows or in the exercise of  
34 reasonable diligence should know that the claimant has sustained a  
35 compensable injury, EXCEPT AN EMPLOYEE WHO IS RECEIVING ACTIVE TREATMENT  
36 PURSUANT TO SECTION 38-672 HAS ONE YEAR AFTER THE DATE OF THE LAST  
37 LICENSED COUNSELING VISIT PURSUANT TO SECTION 38-672 TO FILE A  
38 COMPENSATION CLAIM. Except as provided in subsection B of this section,  
39 ~~neither~~ the commission ~~nor any~~ OR A court ~~shall~~ DOES NOT have jurisdiction  
40 to consider a claim ~~which~~ THAT is not timely filed under this subsection,  
41 except if the employee or other party entitled to file the claim has  
42 delayed in doing so because of justifiable reliance on a material  
43 representation by the commission, employer or insurance carrier or if the  
44 employee or other party entitled to file the claim is insane or legally  
45 incompetent or incapacitated at the time the injury occurs or the right to

1 compensation accrues or during the one-year period thereafter. If the  
 2 insanity or legal incompetence or incapacity occurs after the one-year  
 3 period has commenced, the running of the remainder of the one-year period  
 4 ~~shall be~~ IS suspended during the period of insanity or legal incompetence  
 5 or incapacity. If the employee or other party is insane or legally  
 6 incompetent or incapacitated when the injury occurs or the right to  
 7 compensation accrues, the one-year period commences to run immediately  
 8 ~~upon~~ ON the termination of insanity or legal incompetence or incapacity.  
 9 The commission ~~upon~~ ON receiving a claim shall give notice to the carrier.

10 B. Failure of an employee or any other party entitled to  
 11 compensation to file a claim with the commission within one year or to  
 12 comply with section 23-908 shall not bar a claim if the insurance carrier  
 13 or employer has commenced payment of compensation benefits under section  
 14 23-1044, 23-1045 or 23-1046, except that the payments provided for by  
 15 section 23-1046, subsection A, paragraph 1 and section 23-1065, subsection  
 16 A shall not be considered compensation benefits for the purposes of this  
 17 section.

18 C. If the commission receives a notification of the injury, the  
 19 commission shall send a claim form to the employee.

20 D. The issue of failure to file a claim must be raised at the first  
 21 hearing on a claim for compensation in respect to the injury or death.

22 E. Within ten days after receiving notice of an accident, the  
 23 employer shall inform his insurance carrier and the commission on ~~such~~  
 24 forms ~~as may be~~ prescribed by the commission.

25 F. Each insurance carrier and self-insuring employer shall report  
 26 to the commission a notice of the first payment of compensation and shall  
 27 promptly report to the commission and to the employee by mail at his last  
 28 known address any denial of a claim, any change in the amount of  
 29 compensation and the termination thereof, except that claims for medical,  
 30 surgical and hospital benefits ~~which~~ THAT are not denied shall be reported  
 31 to the commission in the form and manner determined by the commission. In  
 32 all cases where compensation is payable, the carrier or self-insuring  
 33 employer shall promptly determine the average monthly wage pursuant to  
 34 section 23-1041. Within thirty days of the payment of the first  
 35 installment of compensation, the carrier or self-insuring employer shall  
 36 notify the employee and commission of the average monthly wage of the  
 37 claimant as calculated, and the basis for such determination. The  
 38 commission shall then make its own independent determination of the  
 39 average monthly wage pursuant to section 23-1041. The commission shall  
 40 within thirty days after receipt of ~~such~~ THE notice notify the employee,  
 41 employer and carrier of such determination. The amount determined by the  
 42 commission shall be payable retroactive to the first date of entitlement.  
 43 The first payment of compensation shall be accompanied by a notice on a  
 44 form prescribed by the commission stating the manner in which the amount  
 45 of compensation was determined.



1 G. Except as otherwise provided by law, the insurance carrier or  
2 self-insuring employer shall process and pay compensation and provide  
3 medical, surgical and hospital benefits, without the necessity for the  
4 making of an award or determination by the commission.

5 H. On a claim that has been previously accepted, an employee may  
6 reopen the claim to secure an increase or rearrangement of compensation or  
7 additional benefits by filing with the commission a petition requesting  
8 the reopening of the employee's claim ~~upon~~ ON the basis of a new,  
9 additional or previously undiscovered temporary or permanent condition,  
10 which petition shall be accompanied by a statement from a physician  
11 setting forth the physical condition of the employee relating to the  
12 claim. A claim shall not be reopened if the initial claim for  
13 compensation was previously denied by a notice of claim status or  
14 determination by the commission and the notice or determination was  
15 allowed to become final and no exception applies under section 23-947  
16 excusing a late filing to request a hearing. A claim shall not be  
17 reopened because of increased subjective pain if the pain is not  
18 accompanied by a change in objective physical findings. A claim shall not  
19 be reopened solely for additional diagnostic or investigative medical  
20 tests, but expenses for any reasonable and necessary diagnostic or  
21 investigative tests that are causally related to the injury shall be paid  
22 by the employer or the employer's insurance carrier. Expenses for  
23 reasonable and necessary medical and hospital care and laboratory work  
24 shall be paid by the employer or the employer's insurance carrier if the  
25 claim is reopened as provided by law and if these expenses are incurred  
26 within fifteen days of the date that the petition to reopen is filed. The  
27 payment for ~~such~~ THE reasonable and necessary medical, hospital and  
28 laboratory work expense shall be paid for by the employer or the  
29 employer's insurance carrier if the claim is reopened as provided by law  
30 and if ~~such~~ THE expenses are incurred within fifteen days of the filing of  
31 the petition to reopen. Surgical benefits are not payable for any period  
32 prior to the date of filing a petition to reopen, except that surgical  
33 benefits are payable for a period prior to the date of filing the petition  
34 to reopen not to exceed seven days if a bona fide medical emergency  
35 precludes the employee from filing a petition to reopen prior to the  
36 surgery. No monetary compensation is payable for any period prior to the  
37 date of filing the petition to reopen.

38 I. ~~upon~~ ON the filing of a petition to reopen a claim the  
39 commission shall in writing notify the employer's insurance carrier or the  
40 self-insuring employer, which shall in writing notify the commission and  
41 the employee within twenty-one days after the date of ~~such~~ THE notice of  
42 its acceptance or denial of the petition. The reopened claim shall be  
43 processed thereafter in like manner as a new claim.

1 J. The commission shall investigate and review any claim in which  
2 it appears to the commission that the claimant has not been granted the  
3 benefits to which ~~such~~ THE claimant is entitled. If the commission  
4 determines that payment or denial of compensation is improper in any way,  
5 it shall hold a hearing pursuant to section 23-941 within sixty days after  
6 receiving notice of such impropriety. Any claim for temporary partial  
7 disability benefits under this subsection must be filed with the  
8 commission within two years after the date the claimed entitlement to  
9 compensation accrued or within two years after the date on which an award  
10 for benefits encompassing the entitlement period becomes final. A claim  
11 for temporary partial disability compensation shall be deemed to accrue  
12 when the employee knew or with the exercise of reasonable diligence should  
13 have known that the carrier, self-insured employer or special fund denied  
14 or improperly paid compensation. A claim for temporary partial disability  
15 benefits shall not be deemed to have accrued any earlier than ~~the~~  
16 ~~effective date of this amendment to this subsection~~ SEPTEMBER 26, 2008.

17 K. When there is a dispute as to which employer, or insurance  
18 carrier, is liable for the payment of a compensable claim, the commission,  
19 by order, may designate the employer or insurance carrier ~~which~~ THAT shall  
20 pay the claim. Payment shall begin within fourteen days after the  
21 employer or insurance carrier has been ordered by the commission to  
22 commence payment. When a final determination has been made as to which  
23 employer or insurance carrier is actually liable, the commission shall  
24 direct any necessary monetary adjustment or reimbursement among the  
25 parties or carriers involved.

26 L. ~~Upon~~ ON application to the commission, and for good cause shown,  
27 the commission may direct that a document filed as a claim for  
28 compensation benefits be designated as a petition to reopen, effective as  
29 of the original date of filing. In like manner ~~upon~~ ON application and  
30 good cause shown, the commission may direct that a document filed as a  
31 petition to reopen be designated a claim for compensation benefits,  
32 effective as of the original date of filing.

33 M. If the insurance carrier or self-insurer does not issue a notice  
34 of claim status denying the claim within twenty-one days from the date the  
35 carrier is notified by the commission of a claim or of a petition to  
36 reopen, the carrier shall pay immediately compensation as if the claim  
37 were accepted, from the date the carrier is notified by the commission of  
38 a claim or petition to reopen until the date ~~upon~~ ON which the carrier  
39 issues a notice of claim status denying such claim. Compensation includes  
40 medical, surgical and hospital benefits. This section ~~shall~~ DOES not  
41 apply to cases involving seven days or less of time lost from work.



1 (b) Responding to or being directly involved in a criminal  
2 investigation of AN OFFENSE INVOLVING a dangerous crime against a ~~child~~  
3 ~~punishable under~~ CHILDREN AS DEFINED IN section 13-705.

4 (c) Requiring rescue in the line of duty where one's life was  
5 endangered.

6 (d) USING DEADLY FORCE OR BEING SUBJECTED TO DEADLY FORCE IN THE  
7 LINE OF DUTY, REGARDLESS OF WHETHER THE PUBLIC SAFETY EMPLOYEE WAS  
8 PHYSICALLY INJURED.

9 (e) WITNESSING THE DEATH OF ANOTHER PUBLIC SAFETY EMPLOYEE WHILE  
10 ENGAGED IN THE LINE OF DUTY.

11 2. IN THE CASE OF A FIREFIGHTER OR PEACE OFFICER, BEING EXPOSED TO  
12 A PSYCHOLOGICALLY TRAUMATIC EVENT OR SERIES OF PSYCHOLOGICALLY TRAUMATIC  
13 EVENTS IN THE COURSE OF THE FIREFIGHTER'S OR PEACE OFFICER'S EMPLOYMENT.

14 B. IF THE LICENSED MENTAL HEALTH PROFESSIONAL DETERMINES THAT THE  
15 PUBLIC SAFETY EMPLOYEE NEEDS ADDITIONAL VISITS OF LICENSED COUNSELING  
16 BEYOND THAT WHICH THE PUBLIC SAFETY EMPLOYEE IS ENTITLED TO UNDER  
17 SUBSECTION A OF THIS SECTION, THE EMPLOYER SHALL PAY FOR THE ADDITIONAL  
18 VISITS.

19 C. AN EMPLOYER MAY NOT:

20 1. SUBJECT A PUBLIC SAFETY EMPLOYEE WHO IS RECEIVING TREATMENT  
21 PURSUANT TO THIS SECTION AND WHO HAS NOT FILED A CLAIM FOR WORKERS'  
22 COMPENSATION TO AN INDEPENDENT MEDICAL EXAMINATION.

23 2. REQUIRE A PUBLIC SAFETY EMPLOYEE WHO IS RECEIVING TREATMENT  
24 PURSUANT TO THIS SECTION TO USE THE PUBLIC SAFETY EMPLOYEE'S ACCRUED PAID  
25 VACATION, PERSONAL LEAVE OR SICK LEAVE IF THE PUBLIC SAFETY EMPLOYEE  
26 LEAVES WORK TO RECEIVE TREATMENT PURSUANT TO THIS SECTION.

27 D. IF THE LICENSED MENTAL HEALTH PROFESSIONAL DETERMINES THAT THE  
28 PUBLIC SAFETY EMPLOYEE IS NOT FIT TO RETURN TO WORK WHILE THE PUBLIC  
29 SAFETY EMPLOYEE IS RECEIVING TREATMENT PURSUANT TO THIS SECTION, THE  
30 EMPLOYER SHALL CONTINUE TO PROVIDE THE PUBLIC SAFETY EMPLOYEE WITH THE  
31 SAME PAY AND BENEFITS THAT THE PUBLIC SAFETY EMPLOYEE WAS RECEIVING BEFORE  
32 THE PUBLIC SAFETY EMPLOYEE STARTED TREATMENT.

33 E. AN EMPLOYER SHALL ALLOW A PUBLIC SAFETY EMPLOYEE TO SELECT THE  
34 PUBLIC SAFETY EMPLOYEE'S OWN LICENSED MENTAL HEALTH PROFESSIONAL, EXCEPT  
35 THAT IF A LICENSED MENTAL HEALTH PROFESSIONAL DECLINES TO PROVIDE  
36 COUNSELING PURSUANT TO THIS SECTION, THE EMPLOYER IS NOT REQUIRED TO  
37 SECURE THE SERVICES OF THAT LICENSED MENTAL HEALTH PROFESSIONAL. THE  
38 EMPLOYER SHALL PAY THE LICENSED MENTAL HEALTH PROFESSIONAL PURSUANT TO THE  
39 SCHEDULE OF FEES THAT IS FIXED BY THE INDUSTRIAL COMMISSION OF ARIZONA  
40 PURSUANT TO SECTION 23-908.

41 ~~B.~~ F. EXCEPT AS PROVIDED IN SECTION 23-1106, payment by the  
42 employer for licensed counseling pursuant to this section does not create  
43 a presumption that a claim is compensable under section 23-1043.01,  
44 subsection B.

1       ~~G.~~ G. This section does not apply to a state employer that  
2 provides a program to its public safety employees that is characterized by  
3 all of the following:

- 4           1. The program is paid for by the employer.
- 5           2. The program provides licensed counseling for any issue. For  
6 licensed counseling related to trauma experienced while in the line of  
7 duty, the licensed counseling is provided on the request of the public  
8 safety employee and ~~shall be~~ IS in person.
- 9           3. Before July 1, 2017, the program offers at least six visits per  
10 year.
- 11          4. On or after July 1, 2017, the program offers at least twelve  
12 visits per year AND WILL OFFER ADDITIONAL VISITS IF THE LICENSED MENTAL  
13 HEALTH PROFESSIONAL DETERMINES THAT ADDITIONAL VISITS ARE NECESSARY.

14       ~~H.~~ H. For the purposes of this section:

15           1. "Licensed counseling" means counseling provided by a licensed  
16 mental health professional pursuant to title 32, chapter 19.1 or ~~chapter~~  
17 33 if licensees under title 32, chapter 33 have training and expertise in  
18 treating trauma.

19           2. "LICENSED MENTAL HEALTH PROFESSIONAL" MEANS A PERSON WHO  
20 PROVIDES LICENSED COUNSELING.

21       ~~I.~~ 3. "Public safety employee" means:

22           (a) An individual who is a member of the public safety personnel  
23 retirement system or the corrections officer retirement plan.

24           (b) A probation officer, surveillance officer or juvenile detention  
25 officer who is employed by this state or a political subdivision of this  
26 state.

27           (c) A RESCUE OR AMBULANCE WORKER WHO IS A MEMBER OF ANY PUBLIC  
28 RETIREMENT SYSTEM.

29       Sec. 5. Repeal

30       Laws 2016, chapter 240, section 2 is repealed.