Senate Engrossed House Bill

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

CHAPTER 259

HOUSE BILL 2502

AN ACT

AMENDING SECTION 38-672, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 4, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-673; REPEALING SECTION 38-673, ARIZONA REVISED STATUTES; RELATING TO EMPLOYEE BENEFITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 38-672, Arizona Revised Statutes, is amended to read:

38-672. Traumatic event counseling for public safety employees; report; exceptions; definitions

A. Notwithstanding any other law, this state or a political subdivision of this state shall establish a program to provide any of the following persons PUBLIC SAFETY EMPLOYEES who are exposed to any one of the following events while in the course of duty up to twelve visits of licensed counseling, which may be provided via telemedicine, paid for by the employer:

1. In the case of the peace officer, the use of deadly force or subjection to deadly force in the line of duty, regardless of whether the officer was physically injured.
2. In the case of a firefighter, witnessing the death of another firefighter while engaged in the line of duty.
3. In the case of a public safety employee:
   (a) Visually witnessing the death or maiming or visually witnessing the immediate aftermath of such a death or maiming of one or more human beings.
   (b) Responding to or being directly involved in a criminal investigation of AN OFFENSE INVOLVING a dangerous crime against CHILDREN AS DEFINED IN section 13-705.
   (c) Requiring rescue in the line of duty where one's life was endangered.

B. Payment by the employer for licensed counseling pursuant to this section does not create a presumption that a claim is compensable under section 23-1043.01, subsection B.

C. FOR EACH PROGRAM ESTABLISHED PURSUANT TO THIS SECTION, THIS STATE AND EACH POLITICAL SUBDIVISION OF THIS STATE SHALL COMPILE THE FOLLOWING DATA:

1. THE TOTAL NUMBER OF PUBLIC SAFETY EMPLOYEES WHO HAVE PARTICIPATED IN THE PROGRAM.
2. THE AVERAGE NUMBER OF VISITS PER PUBLIC SAFETY EMPLOYEE.
3. THE AVERAGE NUMBER OF MONTHS THAT A PUBLIC SAFETY EMPLOYEE PARTICIPATED IN THE PROGRAM.
4. THE AVERAGE NUMBER OF DAYS THAT A PUBLIC SAFETY EMPLOYEE WHO PARTICIPATED IN THE PROGRAM MISSED WORK.
5. THE TOTAL NUMBER OF PUBLIC SAFETY EMPLOYEES WHO PARTICIPATED IN THE PROGRAM AND WHO SUBSEQUENTLY FILED A WORKERS' COMPENSATION CLAIM AND THE NUMBER OF THOSE CLAIMS THAT WERE APPROVED AND THE NUMBER OF THOSE CLAIMS THAT WERE DENIED.
6. FOR EACH EMPLOYER, THE TOTAL AMOUNT OF WORK MISSED BY PUBLIC SAFETY EMPLOYEES WHO PARTICIPATED IN THE PROGRAM AND HOW MISSED WORK WAS PROVIDED FOR BY THE EMPLOYER OR THROUGH EMPLOYEE BENEFITS.

E. This section does not apply to a state employer that provides a program to its public safety employees that is characterized by all of the following:
1. The program is paid for by the employer.
2. The program provides licensed counseling for any issue. For licensed counseling related to trauma experienced while in the line of duty, the licensed counseling is provided on the request of the public safety employee and shall be in person.
3. Before July 1, 2017, the program offers at least six visits per year.
4. On or after July 1, 2017, the program offers at least twelve visits per year.

F. For the purposes of this section:
1. "Licensed counseling" means counseling provided by a licensed mental health professional pursuant to title 32, chapter 19.1 or chapter 33 if licensees under title 32, chapter 33 have training and expertise in treating trauma.
2. "Public safety employee":
   (a) Means:
      (i) EXCEPT AS PRESCRIBED IN SUBDIVISION (b) OF THIS PARAGRAPH, an individual who is a member of the public safety personnel retirement system or the corrections officer retirement plan.
      (ii) EXCEPT AS PRESCRIBED IN SUBDIVISION (b) OF THIS PARAGRAPH, a probation officer, surveillance officer or juvenile detention officer who is employed by this state or a political subdivision of this state.
   (b) DOES NOT INCLUDE PEACE OFFICERS OR FIREFIGHTERS.
Sec. 2. Title 38, chapter 4, article 5, Arizona Revised Statutes, is amended by adding section 38-673, to read:

38-673. Traumatic event counseling for peace officers and firefighters; report; exceptions; definitions

A. Notwithstanding any other law, this state or a political subdivision of this state shall establish a program to provide peace officers and firefighters who are exposed to any one of the following events while in the course of duty up to twelve visits of licensed counseling, which may be provided via telemedicine, paid for by the employer:

1. Visually witnessing the death or maiming or visually witnessing the immediate aftermath of such a death or maiming of one or more human beings.
2. Responding to or being directly involved in a criminal investigation of an offense involving a dangerous crime against children as defined in section 13-705.
3. Requiring rescue in the line of duty where one's life was endangered.
4. Using deadly force or being subjected to deadly force in the line of duty, regardless of whether the peace officer or firefighter was physically injured.
5. Witnessing the death of another peace officer or firefighter while engaged in the line of duty.
6. Responding to or being directly involved in an investigation regarding the drowning or near drowning of a child.

B. If the licensed mental health professional determines that the peace officer or firefighter needs additional visits of licensed counseling beyond that which the peace officer or firefighter is entitled to under subsection A of this section and that the additional visits are likely to improve the peace officer's or firefighter's condition, the employer shall pay for up to an additional twenty-four visits, if the visits occur within one year after the first visit pursuant to this section.

C. An employer may not require a peace officer or firefighter who is receiving treatment pursuant to this section to use the peace officer's or firefighter's accrued paid vacation, personal leave or sick leave if the peace officer or firefighter leaves work to attend a treatment visit pursuant to this section.

D. If the licensed mental health professional determines that the peace officer or firefighter is not fit for duty while the peace officer or firefighter is receiving treatment pursuant to this section, the employer shall ensure that the peace officer or firefighter has no loss of pay and benefits for up to thirty calendar days per incident after the date the licensed mental health professional determines that the employee is not fit for duty if all of the following apply:
1. THE PEACE OFFICER OR FIREFIGHTER IS UNABLE TO WORK LIGHT DUTY OR
   THE EMPLOYER DOES NOT OFFER A LIGHT DUTY OPTION.
2. THE PEACE OFFICER OR FIREFIGHTER HAS EXHAUSTED THE PEACE
   OFFICER'S OR FIREFIGHTER'S SICK LEAVE, VACATION LEAVE OR OTHER LEAVE THAT
   IS PROVIDED AS PART OF THE PEACE OFFICER'S OR FIREFIGHTER'S BENEFITS
   PACKAGE.
3. IF THE EMPLOYER OFFERS SHORT-TERM DISABILITY BENEFITS, THE
   EMPLOYER OFFERED AND THE PEACE OFFICER OR FIREFIGHTER ELECTED SHORT-TERM
   DISABILITY BENEFITS, BUT THE PEACE OFFICER OR FIREFIGHTER IS NOT ELIGIBLE
   TO RECEIVE SHORT-TERM DISABILITY BENEFITS.
4. THE EMPLOYER DOES NOT HAVE A SUPPLEMENTAL PROGRAM THAT PROVIDES
   PAY AND BENEFITS AFTER THE OCCURRENCE OF AN INJURY. FOR THE PURPOSES OF
   THIS PARAGRAPH, SUPPLEMENTAL PROGRAM THAT PROVIDES PAY AND BENEFITS AFTER
   THE OCCURRENCE OF AN INJURY DOES NOT INCLUDE A SUPPLEMENTAL BENEFITS PLAN
   ESTABLISHED PURSUANT TO SECTION 38-961.
E. AN EMPLOYER SHALL ALLOW A PEACE OFFICER OR FIREFIGHTER TO SELECT
   THE PEACE OFFICER'S OR FIREFIGHTER'S OWN LICENSED MENTAL HEALTH
   PROFESSIONAL, EXCEPT THAT IF A LICENSED MENTAL HEALTH PROFESSIONAL
   DECLINES TO PROVIDE COUNSELING PURSUANT TO THIS SECTION, THE EMPLOYER IS
   NOT REQUIRED TO SECURE THE SERVICES OF THAT LICENSED MENTAL HEALTH
   PROFESSIONAL. THE EMPLOYER SHALL PAY THE LICENSED MENTAL HEALTH
   PROFESSIONAL PURSUANT TO THE SCHEDULE OF FEES THAT IS FIXED BY THE
   INDUSTRIAL COMMISSION OF ARIZONA PURSUANT TO SECTION 23-908.
F. PAYMENT BY THE EMPLOYER FOR LICENSED COUNSELING PURSUANT TO THIS
   SECTION DOES NOT CREATE A PRESUMPTION THAT A CLAIM IS COMPENSABLE UNDER
   SECTION 23-1043.01, SUBSECTION B.
G. FOR EACH PROGRAM ESTABLISHED PURSUANT TO THIS SECTION, THIS
   STATE AND EACH POLITICAL SUBDIVISION OF THIS STATE SHALL COMPILE THE
   FOLLOWING DATA FOR PEACE OFFICERS AND FIREFIGHTERS:
   1. FOR EACH CATEGORY OF PERSONS, THE TOTAL NUMBER OF PERSONS WHO
      HAVE PARTICIPATED IN THE PROGRAM.
   2. FOR EACH CATEGORY OF PERSONS, THE AVERAGE NUMBER OF VISITS PER
      PERSON.
   3. FOR EACH CATEGORY OF PERSONS, THE AVERAGE NUMBER OF MONTHS THAT
      A PERSON PARTICIPATED IN THE PROGRAM.
   4. FOR EACH CATEGORY OF PERSONS, THE AVERAGE NUMBER OF DAYS THAT A
      PERSON WHO PARTICIPATED IN THE PROGRAM MISSED WORK.
   5. FOR EACH CATEGORY OF PERSONS, THE TOTAL NUMBER OF PERSONS WHO
      PARTICIPATED IN THE PROGRAM AND WHO SUBSEQUENTLY FILED A WORKERS'
      COMPENSATION CLAIM AND THE NUMBER OF THOSE CLAIMS THAT WERE APPROVED AND
      THE NUMBER OF THOSE CLAIMS THAT WERE DENIED.
   6. FOR EACH CATEGORY OF PERSONS, OF THE TOTAL NUMBER OF PERSONS WHO
      HAVE PARTICIPATED IN THE PROGRAM, THE PERCENTAGE OF PERSONS WHO RECEIVED
      ADDITIONAL VISITS UNDER SUBSECTION B OF THIS SECTION.
7. FOR EACH CATEGORY OF PERSONS, THE TOTAL NUMBER OF PERSONS WHO WERE DEEMED NOT FIT FOR DUTY BY A LICENSED MENTAL HEALTH PROFESSIONAL PURSUANT TO SUBSECTION D OF THIS SECTION.

8. FOR EACH EMPLOYER, THE TOTAL AMOUNT OF WORK MISSED BY EACH CATEGORY OF PERSONS WHO PARTICIPATED IN THE PROGRAM AND HOW MISSED WORK WAS PROVIDED FOR BY THE EMPLOYER OR THROUGH EMPLOYEE BENEFITS.


I. THIS SECTION DOES NOT APPLY TO A STATE EMPLOYER THAT PROVIDES A PROGRAM TO ITS PEACE OFFICERS AND FIREFIGHTERS THAT IS CHARACTERIZED BY ALL OF THE FOLLOWING:

1. THE PROGRAM IS PAID FOR BY THE EMPLOYER.
2. THE PROGRAM PROVIDES LICENSED COUNSELING FOR ANY ISSUE. FOR LICENSED COUNSELING RELATED TO TRAUMA EXPERIENCED WHILE IN THE LINE OF DUTY, THE LICENSED COUNSELING IS PROVIDED ON THE REQUEST OF THE PEACE OFFICER OR FIREFIGHTER AND IS IN PERSON.
3. THE PROGRAM OFFERS AT LEAST TWELVE VISITS PER YEAR AND WILL OFFER ADDITIONAL VISITS IF THE LICENSED MENTAL HEALTH PROFESSIONAL DETERMINES THAT ADDITIONAL VISITS ARE NECESSARY.

J. FOR THE PURPOSES OF THIS SECTION:

1. "LICENSED COUNSELING" MEANS COUNSELING PROVIDED BY A LICENSED MENTAL HEALTH PROFESSIONAL.
2. "LICENSED MENTAL HEALTH PROFESSIONAL" MEANS A PSYCHIATRIST OR PSYCHOLOGIST WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13, 17 OR 19.1.