

Senate Engrossed

mental health professionals; trauma counseling

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 205

SENATE BILL 1220

AN ACT

AMENDING SECTION 38-673, ARIZONA REVISED STATUTES; RELATING TO EMPLOYEE BENEFITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-673, Arizona Revised Statutes, is amended to
3 read:

4 38-673. Traumatic event counseling for peace officers and
5 firefighters; report; exceptions; definitions

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

12 1. Visually witnessing the death or maiming or visually witnessing
13 the immediate aftermath of such a death or maiming of one or more human
14 beings.

15 2. Responding to or being directly involved in a criminal
16 investigation of an offense involving a dangerous crime against children
17 as defined in section 13-705.

18 3. Requiring rescue in the line of duty where one's life was
19 endangered.

20 4. Using deadly force or being subjected to deadly force in the
21 line of duty, regardless of whether the peace officer or firefighter was
22 physically injured.

23 5. Witnessing the death of another peace officer or firefighter
24 while engaged in the line of duty.

25 6. Responding to or being directly involved in an investigation
26 regarding the drowning or near drowning of a child.

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

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

40 D. If the licensed mental health professional determines that the
41 peace officer or firefighter is not fit for duty while the peace officer
42 or firefighter is receiving treatment pursuant to this section, the
43 employer shall ensure that the peace officer or firefighter has no loss of
44 pay and benefits for up to thirty calendar days per incident after the

1 date the licensed mental health professional determines that the employee
2 is not fit for duty if all of the following apply:

3 1. The peace officer or firefighter is unable to work light duty or
4 the employer does not offer a light duty option.

5 2. The peace officer or firefighter has exhausted the peace
6 officer's or firefighter's sick leave, vacation leave or other leave that
7 is provided as part of the peace officer's or firefighter's benefits
8 package.

9 3. If the employer offers short-term disability benefits, the
10 employer offered and the peace officer or firefighter elected short-term
11 disability benefits, but the peace officer or firefighter is not eligible
12 to receive short-term disability benefits.

13 4. The employer does not have a supplemental program that provides
14 pay and benefits after the occurrence of an injury. For the purposes of
15 this paragraph, supplemental program that provides pay and benefits after
16 the occurrence of an injury does not include a supplemental benefits plan
17 established pursuant to section 38-961.

18 E. An employer shall allow a peace officer or firefighter to select
19 the peace officer's or firefighter's own licensed mental health
20 professional, except that if a licensed mental health professional
21 declines to provide counseling pursuant to this section, the employer is
22 not required to secure the services of that licensed mental health
23 professional. The employer shall pay the licensed mental health
24 professional pursuant to the schedule of fees that is fixed by the
25 industrial commission of Arizona pursuant to section 23-908.

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

29 G. For each program established pursuant to this section, this
30 state and each political subdivision of this state shall compile the
31 following data for peace officers and firefighters:

32 1. For each category of persons, the total number of persons who
33 have participated in the program.

34 2. For each category of persons, the average number of visits per
35 person.

36 3. For each category of persons, the average number of months that
37 a person participated in the program.

38 4. For each category of persons, the average number of days that a
39 person who participated in the program missed work.

40 5. For each category of persons, the total number of persons who
41 participated in the program and who subsequently filed a workers'
42 compensation claim and the number of those claims that were approved and
43 the number of those claims that were denied.

1 6. For each category of persons, of the total number of persons who
2 have participated in the program, the percentage of persons who received
3 additional visits under subsection B of this section.

4 7. For each category of persons, the total number of persons who
5 were deemed not fit for duty by a licensed mental health professional
6 pursuant to subsection D of this section.

7 8. For each employer, the total amount of work missed by each
8 category of persons who participated in the program and how missed work
9 was provided for by the employer or through employee benefits.

10 H. On or before September 1, 2019 and September 1 of each year
11 thereafter, this state and each political subdivision of this state shall
12 submit the data collected pursuant to subsection G of this section to the
13 department of administration. On or before October 1, 2019 and October 1
14 of each year thereafter, the department of administration shall compile
15 the data into a report and submit the report to the governor, the
16 president of the senate, the speaker of the house of representatives, the
17 chairperson of the senate health and human services committee, or its
18 successor committee, the chairperson of the house of representatives
19 health committee, or its successor committee, the chairperson of the
20 senate commerce and public safety committee, or its successor committee,
21 and the chairperson of the house of representatives judiciary and public
22 safety committee, or its successor committee, and shall provide a copy of
23 this report to the secretary of state. Subsection G of this section and
24 this subsection do not authorize this state or a political subdivision of
25 this state to compile and report data that is protected under the health
26 insurance portability and accountability act of 1996 (P.L. 104-191; 110
27 Stat. 1936).

28 I. This section does not apply to a state employer that provides a
29 program to its peace officers and firefighters that is characterized by
30 all of the following:

31 1. The program is paid for by the employer.

32 2. The program provides licensed counseling for any issue. For
33 licensed counseling related to trauma experienced while in the line of
34 duty, the licensed counseling is provided on the request of the peace
35 officer or firefighter and is in person.

36 3. The program offers at least twelve visits per year and will
37 offer additional visits if the licensed mental health professional
38 determines that additional visits are necessary.

39 J. For the purposes of this section:

40 1. "Licensed counseling" means counseling provided by a licensed
41 mental health professional.

1 2. "Licensed mental health professional" means A LICENSED
2 INDIVIDUAL WHO SPECIALIZES IN TRAUMA AND CRISIS, WHO USES EVIDENCED-BASED
3 TREATMENT OPTIONS AND WHO IS ONE OF THE FOLLOWING:

4 (a) A psychiatrist ~~OR~~ WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER
5 13 OR 17.

6 (b) A psychologist who is licensed pursuant to title 32, chapter
7 ~~13, 17 or~~ 19.1.

8 (c) A MENTAL HEALTH PROFESSIONAL WHO IS LICENSED PURSUANT TO TITLE
9 32, CHAPTER 33 AND WHO HOLDS EITHER A MASTER'S OR DOCTORAL DEGREE RELATED
10 TO THE MENTAL HEALTH PROFESSION.

11 (d) A MENTAL HEALTH NURSE PRACTITIONER OR A PSYCHIATRIC CLINICAL
12 NURSE SPECIALIST WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 15.

APPROVED BY THE GOVERNOR APRIL 9, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2021.