



**Colorado  
Legislative  
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Staff**

**HB17-1229**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

<b>Drafting Number:</b> LLS 17-0607	<b>Date:</b> March 16, 2017
<b>Prime Sponsor(s):</b> Rep. Singer; Becker J. Sen. Cooke; Todd	<b>Bill Status:</b> House Public Health Care and Human Services
	<b>Fiscal Analyst:</b> Amanda Hayden (303-866-4918)

**BILL TOPIC:** WORKERS' COMPENSATION FOR MENTAL IMPAIRMENT

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
<b>State Revenue</b>		
<b>State Expenditures</b>		Potential increase. See State Expenditures section.
General Fund		
Cash Funds		
Reappropriated Funds		
Federal Funds		
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing potential increase in state expenditures.		

**Summary of Legislation**

This bill makes changes to workers' compensation law. It requires mental impairment claims to be proven by evidence supported by the testimony of a licensed psychiatrist, rather than a physician, or a psychologist. The bill defines "psychologically traumatic event" as one generally outside of a worker's usual experience that would evoke significant symptoms of distress in a worker in similar circumstances, or an event within a worker's usual experience only when the worker is diagnosed with post-traumatic stress disorder (PTSD) by a licensed psychiatrist or psychologist after:

- experiencing an attempt by another person to cause the worker serious bodily injury or death through the use of deadly force;
- witnessing a death, or the immediate aftermath of a death, of one or more people as the result of a violent event; or
- repeatedly witnessing the serious bodily injury (or immediate aftermath) of one or more people as a result of an intentional act or of an accident.

**Background**

Under current law, PTSD is not covered by workers' compensation insurance for peace officers, emergency medical service providers, and firefighters (public safety professionals) unless an event outside of the employee's typical job responsibilities caused the PTSD. Workers'

compensation for state employees is self-funded, with state agencies paying into the Workers' Compensation Fund based on risk and actuarial analyses. The fund sources for these payments depend on each agency's individual fund split. The Workers' Compensation Fund is managed by the Division of Risk Management in the Department of Personnel and Administration (DPA) as a statewide common policy, and employee claims are processed by a third-party administrator. The Workers' Compensation Fund currently insures more than 2,000 peace officers. State institutions of higher education, local governments, special districts, and other public jurisdictions may choose to self-fund their workers' compensation obligations or obtain private workers' compensation insurance.

### **State Expenditures**

Beginning in FY 2018-19, this bill may increase state expenditures for the Department of Personnel and Administration and any agency that experiences additional workers' compensation claims for mental impairment.

***Department of Personnel and Administration.*** DPA may have increased costs to process and pay for workers' compensation claims for state employees under the bill. The bill provides grounds for a public safety professional to make a claim of mental impairment based on a psychologically traumatic event that occurs within the normal course of their duties. At this time, the number of potential mental impairment claims by state employees is unknown. For informational purposes, the Workers' Compensation Fund has denied an average of 22 mental impairment claims per year over the last 5 years. The average compensable claim costs the department \$35,000 in medical, indemnity, and litigation expenses. As claims are incurred, assessments on state agencies to fund the Workers' Compensation Fund likely will increase. If a significant number of claims are filed and approved in the first year, the department may need to seek additional General Fund appropriations through the annual budget process to ensure the solvency of the Workers' Compensation Fund.

***Other state agencies.*** Agencies that employ peace officers or correctional officers, namely the Colorado State Patrol within the Department of Public Safety, the Department of Corrections, and the Department of Human Services, may experience an increase in workers' compensation claims. If this increase in claims drives an increase in the agency's assessment toward the Workers' Compensation Fund, expenditures will increase. The fund source for these expenditures will depend on the specific fund split each agency utilizes in paying into the Workers' Compensation Fund. The fiscal note assumes that if assessments increase, the affected agency will request additional appropriations through the annual budget process.

### **Local Government Impact**

The bill may increase expenditures for local governments or special districts that employ covered public safety professionals, as they will be liable for any costs associated with increased workers' compensation disability claims resulting from mental impairment. The number of additional claims that may be filed or approved as a result of the bill is unknown.

### **Effective Date**

The bill takes effect July 1, 2018, if no referendum petition is filed, and it applies to injuries sustained on or after this date.

**State and Local Government Contacts**

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