**South Carolina General Assembly**

125th Session, 2023-2024

**S. 251**

**STATUS INFORMATION**

General Bill

Sponsors: Senators M. Johnson, Adams, Gustafson and Devine

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Introduced in the Senate on January 10, 2023

Currently residing in the Senate

Summary: First Responders' Workers' Compensation Coverage for PTSD

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/30/2022 Senate Prefiled

11/30/2022 Senate Referred to Committee on **Judiciary**

1/10/2023 Senate Introduced and read first time ([Senate Journal‑page 128](h:\sj\20230110.docx))

1/10/2023 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 128](h:\sj\20230110.docx))

3/30/2023 Senate Referred to Subcommittee: M.Johnson (ch), Sabb,
Matthews, Talley, Adams

2/21/2024 Senate Committee report: Favorable with amendment **Judiciary**

2/22/2024 Scrivener's error corrected

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=251&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[11/30/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/251_20221130.docx)

[02/21/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/251_20240221.docx)

[02/22/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/251_20240222.docx)

Committee Report

February 21, 2024

S. 251

Introduced by Senators M. Johnson, Adams, Gustafson and Devine

S. Printed 02/21/24--S. [SEC 2/22/2024 4:31 PM]

Read the first time January 10, 2023

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The committee on Senate Judiciary

To whom was referred a Bill (S. 251) to amend the South Carolina Code of Laws by adding Section 42‑9‑50 so as to provide benefits to first responders medically diagnosed with post‑traumatic stress disorder, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 2 and inserting:

SECTION 2. This act takes effect on January 1, 2025, and is applicable to injuries that occur on or after the effective date.

Renumber sections to conform.

Amend title to conform.

LUKE RANKIN for Committee.

statement of estimated fiscal impact

Explanation of Fiscal Impact

State Expenditure

This bill exempts first responders from having to establish by a preponderance of the evidence that stress, mental injury, or mental illness arising out of or in the course of employment stems from conditions that are extraordinary or unusual relative to the normal conditions of employment for purposes of collecting workers’ compensation. Currently, if a first responder’s stress, mental injury, or mental illness arise from normal working conditions, the first responder is not considered injured for purposes of collecting workers’ compensations. This bill would allow a first responder to qualify for injury-related workers’ compensation if the stress, mental injury, or mental illness is medically diagnosed as post-traumatic stress disorder, he is participating in and receiving clinical care through SCLEAP, SC FAST, or their successor programs, and a treating physician determines there is an incapacity to work. First responder is defined to include firefighters, volunteer firefighters, law enforcement officers, and volunteer law enforcement officers. This bill takes effect on January 1, 2024, and is applicable to injuries that occur on or after the effective date.

Workers Compensation Commission. This bill does not materially alter the responsibilities of the agency. Therefore, this bill will have no expenditure impact on WCC.

Department of Insurance. This bill does not materially alter the responsibilities of the agency. Therefore, this bill will have no expenditure impact on DOI.

State Accident Fund. This bill will result in an increase in the number of successful workers’ compensation claims triggering an increase in the cost of workers compensation insurance coverage. The amount of the increased cost will depend upon the number of newly successful workers compensation claims filed by first responders whose stress or mental illness stem from the normal conditions of their jobs. The expenditure impact of this bill is pending, contingent upon an additional response from SAF.

Local Expenditure

This bill may result in an increase in the cost of workers’ compensation insurance coverage dependent upon the number of new workers’ compensation claims likely to be filed by first responders whose stress or mental illness stem from the normal conditions of their jobs. Those local entities that employee first responders may see in an increase in insurance premiums due to this increase of coverage. SCAC provides locals with workers compensation insurance coverage through the South Carolina Counties Workers’ Compensation Trust (SCCWCT). Additionally, MASC offers locals workers’ compensation coverage. According to MASC, this bill would create a new compensable condition for claims; however, the resultant increase in premium costs is unknown. Therefore, RFA anticipates this bill will result in an undetermined increase in local expenditures. We will update this fiscal impact statement if SCAC provides additional information on local expenditures.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

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A bill

to amend the South Carolina Code of Laws by adding Section 42‑9‑50 so as to provide benefits to first responders medically diagnosed with post‑traumatic stress DISORDER arising from a SIGNIFICANT traumatic experience or situation in the course and scope of EMPLOYMENT, the first responder has an incapacity to work as determined by the treating physician, and the first responder is participating in and RECEIVING clinical care.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 9, Title 42 of the S.C. Code is amended by adding:

Section 42‑9‑50. (A) As used in this section:

(1) “First responder” means a law enforcement officer or firefighter employed by state or local government. A volunteer law enforcement officer or firefighter engaged by state or local government is also considered a first responder of the state or local government for the purposes of this section.

(2) “Significant traumatic experience or situation” means one of the following events:

(a) witnessing a deceased minor or the death of a minor;

(b) witnessing an injury to a minor who subsequently died before or upon arrival at a hospital emergency department;

(c) participating in the physical treatment of an injured minor who subsequently died before or upon arrival at a hospital emergency department;

(d) manually transporting an injured minor who subsequently died before or upon arrival at a hospital emergency department;

(e) seeing for oneself a decedent whose death involved a grievous bodily harm;

(f) witnessing a death, including suicide, that involved grievous bodily harm;

(g) witnessing a homicide, regardless of whether the homicide was criminal or excusable, including murder; mass killing, which means the killing of three or more individuals in a single incident; voluntary manslaughter, involuntary manslaughter, and self‑ defense;

(h) witnessing an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if that person was injured with grievous bodily harm;

(i) participating in the physical treatment of an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured with grievous bodily harm;

(j) manually transporting a person who was injured, including by attempted suicide, and subsequently died before or upon arrival at a hospital emergency department if the person was injured with grievous bodily harm; or

(k) using deadly force or being subjected to deadly force in the course of the first responder’s employment.

(3) “Witnessing” means to see, hear, or smell for oneself.

(4) “Grievous bodily harm” means serious bodily injury including fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries.

(B) A first responder who sustains a stress or mental injury unaccompanied by a physical injury arising out of and in the course of his employment shall be concluded to have sustained injury by accident if:

(1) the employee is employed as a first responder and if the impairment causing the stress, mental injury, or mental illness is medically diagnosed as post‑traumatic stress disorder, as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, arising from the first responder’s involvement in a significant traumatic experience or situation in the course and scope of his employment, without regard to whether the experience or situation was extraordinary or unusual in comparison to the normal working conditions of a first responder’s employment;

(2) the first responder is participating in and receiving clinical care through the South Carolina Law Enforcement Assistance Program (SCLEAP), the South Carolina First Responders Assistance and Support Team (SC FAST) or their successor programs. An injured worker who is receiving medical benefits under this section must exhaust the clinical care provided through SCLEAP, SC FAST, or their successor programs before he is entitled to medical care under Section 42‑15‑60; and

(3) there is an incapacity to work as determined by the treating physician.

(C) When the incapacity for work resulting from an injury under this section is total, the employer shall pay, or cause to be paid, as provided in this chapter, to the injured employee during the total disability a weekly compensation equal to sixty‑six and two‑thirds of his average weekly wages, but not less than seventy‑five dollars a week so long as this amount does not exceed his average weekly wages; if this amount does exceed his average weekly wages, the injured employee may not be paid, each week, less than his average weekly wages. The injured employee may not be paid more each week than the average weekly wage in this State for the preceding fiscal year. In no case may the period covered by the compensation exceed five hundred weeks except as provided in Section 42‑9‑10(C). An injured employee is not entitled to indemnity under Section 42‑9‑10 or Section 42‑9‑30, unless the incapacity for work resulting from an injury under this section is total incapacity to work.

(D) Stress or mental injuries arising out of and in the course of employment unaccompanied by physical injury are not considered compensable if they result from any event or series of events which are incidental to normal employer‑employee relations including, but not limited to, personnel actions by the employer such as disciplinary actions, work evaluations, transfers, promotions, demotions, salary reviews, or terminations, except when these actions are taken in an extraordinary and unusual manner.

(E) Stress, mental injuries, and mental illness alleged to have been aggravated by a work‑related physical injury may not be found compensable unless the aggravation is:

(1) admitted by the employer or carrier;

(2) noted in a medical record of an authorized physician that, in the physician’s opinion, the condition is at least in part causally related or connected to the injury or accident, whether or not the physician refers the employee for treatment of the condition;

(3) found to be causally related or connected to the accident or injury after evaluation by an authorized psychologist or psychiatrist; or

(4) noted in a medical record or report of the employee’s physician as causally related or connected to the injury or accident.

SECTION 2. This act takes effect on January 1, 2024, and is applicable to injuries that occur on or after the effective date.

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