

Vermont Legislative Joint Fiscal Office

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FISCAL NOTE

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H.197 – An Act Relating to Mental Health Parity for Workers’ Compensation

As passed the House Committees on Commerce & Economic Development and Appropriations

This bill has two parts. First it proposes changes to the workers’ compensation law in relation to first responders diagnosed with post-traumatic stress disorder (PTSD) incurred on the job, by changing the presumption of compensability – which is the basic premise that the injury or condition (in this case PTSD) is assumed to have arisen out of and in the course of employment. Second, the bill also makes changes regarding mental parity in workers compensation that affects all workers.

Fiscal Impact Summary:

I. Changes regarding presumption for first responders

- SFY’18 = No estimated impact
- SFY’19 = Estimates range from \$0 to \$126,000 (\$60,000 general fund)

II. Mental health parity in workers compensation in general (Sec. J)

- This section will impact every employer in the state
- There will be a likely upward impact due to increased claims (amount unknown)

I. Changes Regarding Presumption

State Budget Impact:

Fiscal Year 2018

Workers compensation premiums for fiscal year 2018 have already been set. If H.197 were to become law, the Office of Risk Management (and their actuaries) would wait to see how the claims experience is impacted when they set premium rates for 2019. Therefore, any potential changes to workers compensation premiums resulting from this legislation would not be felt until fiscal year 2019.

Fiscal Year 2019

At this time there is very little experience for JFO to draw upon to estimate any potential increase in workers compensation premiums or pressures to the state workers’ compensation self-insurance fund. According to the National Council on Compensation Insurance (NCCI), the presumption language could have an impact of no less than 5% on those classification expected to be impacted. Employing the NCCI assumption, and in consultation with the Vermont Office of Risk Management, it is estimated that the potential impact to workers compensation claims could range from **\$0 to \$126,000 gross (\$60,000 general fund)**. State employee costs are paid for from a variety of fund sources, depending on the department and function. Ultimately the impact will depend on the experience – number of claims filed and the severity of those claims.

Some state agencies and departments rely more heavily on federal funds or transportation funds, while others are completely funded by general funds. For the departments and classifications expected to be affected, it is estimated that approximately 47% of the cost for this would fall to general funds.

Statewide Impact

Outside of state government, most of the classifications expected to be impacted by this legislation, work for cities and towns that are members of the Vermont League of Cities and Towns (VLCT). At this time, the VLCT is working on its own estimates of what the potential impact to workers' compensation premiums statewide will be. There may also be other private entities (outside of the VLCT) that could see impacts to their workers compensation related to first responders to the extent they have licensed employees who meet the definitions under 24 V.S.A. § 2651. For instance, licensed ski patrollers who work for ski resorts.

Further Information

Vermont State Police Members Assistance Team

The Vermont State Police Members Assistance Team ("the Team") can serve as a model for helping first responders and other employees who are exposed to traumatic experiences. The Team provides direct support, resources, intervention and prevention, and training for employees and their family members who have been exposed to trauma or need assistance with health or personal problems, regardless of whether the problem is work related or a personal matter. The program uses a peer support model and contracts with a licensed psychologist. The estimated two-year contract cost for this program for the Vermont State Police is \$258,300. Such programs may not only mitigate workers compensation costs but have other positive impacts for both employees and their families.

II. Changes Regarding Mental Health Parity in Workers Compensation

A second aspect of this bill deals with mental health parity in workers compensation (sec. J). Under existing law, to receive workers' compensation benefits for a mental condition, a worker must demonstrate that the mental condition was caused by a work-related event or work-related stress that was unusual in comparison to and of a greater magnitude than the normal stresses experienced by other workers in his or her occupation. H.197 proposes to alter that test by requiring a claimant to show that the work-related event or work-related stress that caused his or her mental condition was "extraordinary and unusual in comparison to pressures and tensions experienced by the average employee across all occupations." Thus, H.197 may make it somewhat easier for a worker in a high-stress occupation or an occupation that is characterized by traumatic events to successfully claim that he or she is entitled to workers' compensation for a work-related mental condition.

This section will have an upward impact on premiums related to high stress positions (amount unknown) both in the public and private sectors. Ultimately the impact will depend on the experience – number of claims filed and the severity of those claims