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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **4026**

03/07/2022 Authored by Long, Mueller, O'Neill, Huot and Poston

The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to labor; modifying timeline for duty disability determinations; requiring
1.3 treatment as part of workers' compensation benefits; requiring preservice and
1.4 in-service wellness training for peace officers and firefighters; appropriating money;
1.5 amending Minnesota Statutes 2020, sections 176.101, by adding subdivisions;
1.6 299A.465, subdivision 4; 353.031, subdivision 1; proposing coding for new law
1.7 in Minnesota Statutes, chapter 626.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2020, section 176.101, is amended by adding a subdivision
1.10 to read:

1.11 Subd. 9. Post-traumatic stress disorder; treatment required. (a) For the purposes of
1.12 this section and section 353.031, subdivision 1, paragraph (b), the following terms have the
1.13 meanings given:

1.14 (1) "employee" means a peace officer or firefighter who is a member of the police and
1.15 fire plan under section 353.64, or:

1.16 (i) a member of the State Patrol retirement plan under section 352B.02; and

1.17 (ii) diagnosed with a mental impairment, as defined in section 176.011, subdivision 15,
1.18 paragraph (d);

1.19 (2) "employer" means an employer of a member of the police and fire plan under section
1.20 353.64;

1.21 (3) "mental health care provider" has the meaning given under Minnesota Rules, part
1.22 5221.6700, subpart 2, item A, subitem (5);

2.1 (4) "period of treatment" means 16 weeks of treatment for post-traumatic stress disorder
2.2 (PTSD), as described under Minnesota Rules, part 5221.6700, subpart 6, at the direction of
2.3 a mental health care provider; and

2.4 (5) "treatment for PTSD" means the treatment described under Minnesota Rules, part
2.5 5221.6700, at the direction of a mental health care provider.

2.6 (b) Notwithstanding any law to the contrary, the following requirements apply to an
2.7 employee with a compensable workers' compensation injury under this chapter:

2.8 (1) receipt of workers' compensation benefits is contingent upon the employee's ongoing
2.9 good-faith participation in treatment for PTSD. Treatment shall be paid for as provided
2.10 under this chapter;

2.11 (2) for the purposes of compensation for temporary partial disability or temporary total
2.12 disability, the employee shall continue to complete one period of treatment for every 16
2.13 weeks of compensation the employee receives under this chapter. Before permanent
2.14 restrictions can be addressed, the employee shall complete at least two periods of treatment,
2.15 or 32 weeks of treatment, before a determination can be made that the employee will never
2.16 return to gainful employment in a position as an employee under paragraph (a), clause (1);

2.17 (3) for the purposes of compensation for permanent total disability, the employee shall
2.18 complete at least two periods of treatment, or 32 weeks of treatment, before a determination
2.19 can be made that the employee will never return to gainful employment;

2.20 (4) no determination of maximum medical improvement can be made until the applicable
2.21 treatment periods required under clauses (2) and (3) have been completed; and

2.22 (5) if, subject to clauses (1) to (4), the employee is determined to have a permanent total
2.23 disability for the purposes of compensation under this chapter, the employee shall continue
2.24 to participate in treatment for PTSD at the direction of the employee's mental health care
2.25 provider. The employee's mental health provider must continually assess the employee's
2.26 progress in treatment at least annually, including any change to the employee's ability to
2.27 return to gainful employment. If the mental health care provider determines that the employee
2.28 will be able to return to gainful employment at some point in the future, the employee is no
2.29 longer permanently and totally disabled, and workers' compensation benefits shall be adjusted
2.30 accordingly.

3.1 Sec. 2. Minnesota Statutes 2020, section 176.101, is amended by adding a subdivision to
3.2 read:

3.3 Subd. 10. Continuation of benefits; employer reimbursement. (a) For the duration
3.4 of the 32 weeks of treatment required for an employee under subdivision 9, paragraph (b),
3.5 clauses (2) and (3), an employer shall continue:

3.6 (1) to provide health insurance benefits to an employee and the employee's dependents
3.7 if the employee was receiving dependent coverage at the time of the injury under the
3.8 employer's group health plan;

3.9 (2) to pay the employer's contribution for health insurance benefits for the employee
3.10 and, if applicable, the employee's dependents; and

3.11 (3) to pay the employer's contribution to retirement benefits under the police and fire
3.12 defined benefit plan.

3.13 (b) Nothing in paragraph (a) prevents an employer from providing benefits in addition
3.14 to those required by this section or otherwise affects an employee's rights with respect to
3.15 any other employment benefit.

3.16 (c) An employer subject to this subdivision may annually apply by August 1 for the
3.17 preceding fiscal year to the commissioner of public safety for reimbursement of:

3.18 (1) the costs incurred to continue benefits as required under this subdivision; and

3.19 (2) the wage-related costs incurred to backfill a position for a period of up to 32 weeks
3.20 for an employee who is on temporary partial disability or temporary total disability and
3.21 receiving treatment.

3.22 Sec. 3. Minnesota Statutes 2020, section 299A.465, subdivision 4, is amended to read:

3.23 **Subd. 4. Public employer reimbursement.** (a) A public employer subject to this section
3.24 may annually apply by August 1 for the preceding fiscal year to the commissioner of public
3.25 safety for reimbursement ~~to help defray a portion of its costs of complying with this section.~~
3.26 Except as provided for in paragraph (b), the commissioner shall provide an equal pro-rata
3.27 share reimbursement to the public employer out of the public safety officer's benefit account
3.28 based on the availability of funds for each eligible officer, firefighter, and qualifying
3.29 dependents. Individual shares must not exceed the actual costs of providing coverage under
3.30 this section by a public employer.

3.31 (b) Beginning on August 1, 2023, a public employer is not eligible for reimbursement
3.32 under paragraph (a) unless the employer provides at least one of the following:

4.1 (1) annual wellness training to peace officers and firefighters who either are employed
4.2 or volunteer for the employer; or

4.3 (2) an employee assistance program or peer support program.

4.4 Wellness training for peace officers must incorporate the learning objectives established by
4.5 the Peace Officer Standards and Training Board under section 626.8477. No later than
4.6 February 1, 2023, the Board of Firefighter Training and Education must create a wellness
4.7 training program for public employers to offer to firefighters to satisfy the requirements of
4.8 this paragraph.

4.9 Sec. 4. Minnesota Statutes 2020, section 353.031, subdivision 1, is amended to read:

4.10 Subdivision 1. **Application.** (a) This section applies to all disability determinations for
4.11 the public employees general fund, the public employees police and fire fund, and the local
4.12 government correctional service retirement plan and any other disability determination
4.13 subject to approval by the board, except as otherwise specified in paragraph (b) and section
4.14 353.33, 353.656, or 353E.05. These requirements and the requirements of section 353.03,
4.15 subdivision 3, are in addition to the specific requirements of each plan and govern in the
4.16 event there is any conflict between these sections and the procedures specific to any of those
4.17 plans under section 353.33, 353.656, or 353E.06.

4.18 (b) Notwithstanding any law to the contrary, a member of the police and fire plan
4.19 diagnosed with PTSD:

4.20 (1) shall seek and receive a decision on compensability of workers' compensation benefits
4.21 under chapter 176 before applying for regular duty disability under the provisions of this
4.22 chapter; and

4.23 (2) is not eligible for regular duty disability under this chapter unless and until the
4.24 member has completed the applicable treatment periods required under section 176.101,
4.25 subdivision 9, paragraph (b), clauses (2) and (3).

4.26 Sec. 5. [626.8477] WELLNESS TRAINING.

4.27 Subdivision 1. Learning objectives and training course. The board must create learning
4.28 objectives and a training course to prepare peace officers for the stressful and traumatic
4.29 events that are common to policing and teach officers methods to process and cope with
4.30 the stress and trauma inherent to policing. The learning objectives and training course must
4.31 be updated as the board considers appropriate.

5.1 Subd. 2. **Preservice training required.** (a) The learning objectives developed pursuant
5.2 to subdivision 1 must be included in the required curriculum of a professional peace officer
5.3 education program.

5.4 (b) A person is not eligible to take the peace officer licensing examination after July 1,
5.5 2024, unless the individual has received the training described in paragraph (a).

5.6 Subd. 3. **In-service training required.** Beginning July 1, 2023, the chief law enforcement
5.7 officer of every state and local law enforcement agency shall provide in-service wellness
5.8 training to every peace officer and part-time peace officer employed by the agency. The
5.9 training must comply with the learning objectives developed and approved by the board
5.10 and must meet board requirements for board-approved continuing education credit. Each
5.11 peace officer with a license renewal date after June 30, 2023, is not required to complete
5.12 this training until the officer's next full three-year licensing cycle.

5.13 Subd. 4. **Record keeping required.** The head of each local and state law enforcement
5.14 agency shall maintain written records of the agency's compliance with the requirements of
5.15 subdivision 3. The written records are subject to periodic review by the board and must be
5.16 made available to the board at its request.

5.17 Sec. 6. **APPROPRIATION.**

5.18 (a) \$..... in fiscal year 2023 is appropriated from the general fund to the commissioner
5.19 of public safety for the purpose of reimbursing employers under Minnesota Statutes, section
5.20 176.101, subdivision 10, for the cost incurred to continue benefits and backfill positions.
5.21 The base in fiscal year 2024 and beyond is \$.....

5.22 (b) \$..... in fiscal year 2023 is appropriated from the general fund to the commissioner
5.23 of public safety for the purpose of reimbursing employers under Minnesota Statutes, section
5.24 299A.465, subdivision 4. This appropriation is available until June 30, 2024. The base in
5.25 fiscal year 2024 and beyond is \$.....

5.26 Sec. 7. **EFFECTIVE DATE.**

5.27 Sections 1, 2, and 4 are effective for workers' compensation benefit determinations for
5.28 dates of injury incurred after the date the police and fire plan and any applicable collective
5.29 bargaining agreement adopting sections 1, 2, and 4 has been implemented. The police and
5.30 fire plan and any applicable collective bargaining agreement shall adopt and implement the
5.31 provisions in sections 1, 2, and 4 no later than August 1, 2022.