

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0908.01 Kristen Forrestal x4217

HOUSE BILL 14-1343

HOUSE SPONSORSHIP

Singer and Wright, Exum, Foote, Garcia, Melton, Salazar

SENATE SPONSORSHIP

Tochtrop,

House Committees

Local Government
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING WORKERS' COMPENSATION COVERAGE FOR
102 POST-TRAUMATIC STRESS DISORDER FOR PEACE OFFICERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill includes post-traumatic stress disorder (PTSD) that is suffered by a peace officer as a covered workers' compensation disability. A peace officer is presumed to have a diagnosis of PTSD if the peace officer seeks treatment for and is diagnosed with PTSD within 36 months after the date of a traumatic event that occurs in the line of duty. An

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

employer or insurer has the opportunity to overcome the presumption. The bill requires an insurer or employer to pay all authorized medical expenses of a peace officer alleged to suffer from work-related PTSD.

The bill limits the dissemination of health information by health care providers to that information directly related to the cause or aggravating factors of the patient's PTSD. The bill sets up an expedited review process for the determination of the diagnosis of work-related PTSD.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 8-41-211 as
3 follows:

4 **8-41-211. Coverage for post-traumatic stress disorder - peace**
5 **officers - legislative declaration - definitions.** (1) **Legislative**
6 **declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
7 THAT:

8 (a) PEACE OFFICERS ARE EXPOSED IN THE LINE OF DUTY TO
9 CERTAIN TRAUMATIC WORK-RELATED EVENTS THAT CAN LEAD TO A
10 DIAGNOSIS OF POST-TRAUMATIC STRESS DISORDER;

11 (b) A PEACE OFFICER SHOULD NOT BE DISCOURAGED FROM
12 SEEKING TREATMENT FOR PTSD; THEREFORE, IT IS IMPORTANT THAT:

13 (I) LIMITATIONS BE PLACED ON INFORMATION GIVEN TO THIRD
14 PARTIES BY HEALTH CARE PROVIDERS AND OTHER PERSONS OR ENTITIES
15 REGARDING PTSD; AND

16 (II) JUDICIAL REVIEW FOR A PTSD CLAIM SHOULD BE EXPEDITED;
17 AND

18 (c) PTSD IS A WORKPLACE INJURY THAT SHOULD BE COVERED BY
19 THE "WORKERS' COMPENSATION ACT OF COLORADO" FOR PEACE
20 OFFICERS, AND THIS ISSUE IS A MATTER OF STATEWIDE CONCERN.

21 (2) **Definitions.** AS USED IN THIS SECTION:

1 (a) "HEALTH CARE PROVIDER" MEANS A PHYSICIAN OR
2 PSYCHIATRIST LICENSED PURSUANT TO ARTICLE 36 OF TITLE 12, C.R.S., A
3 PSYCHOLOGIST LICENSED PURSUANT TO PART 3 OF ARTICLE 43 OF TITLE 12,
4 C.R.S., OR A PERSON WORKING UNDER THE SUPERVISION OF A LICENSED
5 PHYSICIAN, PSYCHIATRIST, OR PSYCHOLOGIST.

6 (b) "LINE OF DUTY" MEANS AN ACTION THAT A PEACE OFFICER IS
7 NORMALLY REQUIRED TO PERFORM IN THE COURSE OF HIS OR HER
8 EMPLOYMENT. THE LINE OF DUTY OF A PEACE OFFICER INCLUDES CRIME
9 CONTROL OR REDUCTION; ENFORCEMENT OF THE CRIMINAL LAW;
10 PROVISION OF MEDICAL SERVICES; AND ACTIONS THAT A PEACE OFFICER IS
11 AUTHORIZED OR OBLIGATED BY LAW, RULE, OR CONDITION OF
12 EMPLOYMENT OR SERVICE TO PERFORM OR FOR WHICH THE PEACE OFFICER
13 IS COMPENSATED BY THE PUBLIC OR PRIVATE AGENCY HE OR SHE SERVES.

14 (c) "PEACE OFFICER" MEANS A PEACE OFFICER AS DESCRIBED IN
15 SECTIONS 16-2.5-102, 16-2.5-103, 16-2.5-105, 16-2.5-108, 16-2.5-114,
16 16-2.5-146, AND 16-2.5-148, C.R.S.

17 (d) "POST-TRAUMATIC STRESS DISORDER" OR "PTSD" HAS THE
18 SAME MEANING AS SET FORTH IN THE MOST RECENT EDITION OF THE
19 DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (DSM)
20 PROVIDED BY THE AMERICAN PSYCHIATRIC ASSOCIATION.

21 (e) "SERIOUS BODILY INJURY" MEANS AN INJURY THAT INVOLVES
22 A RISK OF DEATH, SERIOUS PERMANENT DISFIGUREMENT, OR PROTRACTED
23 LOSS OR IMPAIRMENT OF THE FUNCTION OF ANY PART OR ORGAN OF THE
24 BODY.

25 (3) **Presumption of post-traumatic stress disorder.**
26 POST-TRAUMATIC STRESS DISORDER EXPERIENCED BY A PEACE OFFICER
27 RESULTING FROM AN EVENT OR CONDITION ENCOUNTERED IN THE LINE OF

1 DUTY IS A COVERED DISABILITY. A PEACE OFFICER IS PRESUMED TO HAVE
2 PTSD IF THE PEACE OFFICER SEEKS TREATMENT FOR PTSD AND IS
3 DIAGNOSED WITH PTSD WITHIN THIRTY-SIX MONTHS AFTER THE DATE OF
4 ONE OR MORE OF THE FOLLOWING EVENTS THAT OCCURRED IN THE LINE OF
5 DUTY:

6 (a) THE PEACE OFFICER USED DEADLY FORCE OR WAS SUBJECTED
7 TO THE USE OF DEADLY FORCE THAT RESULTED IN DEATH OR SERIOUS
8 BODILY INJURY TO ANOTHER PERSON, REGARDLESS OF WHETHER THE
9 PEACE OFFICER WAS PHYSICALLY INJURED;

10 (b) THE PEACE OFFICER WITNESSED THE DEATH OF OR SERIOUS
11 BODILY INJURY TO ANOTHER PERSON, OR THE IMMEDIATE AFTERMATH OF
12 DEATH OR SERIOUS BODILY INJURY TO ANOTHER PERSON;

13 (c) THE PEACE OFFICER WAS INJURED; OR

14 (d) THE PEACE OFFICER CONTRACTED A DISEASE.

15 (4) AN EMPLOYER OR WORKERS' COMPENSATION INSURER MAY
16 OVERCOME THE PRESUMPTION ESTABLISHED IN SUBSECTION (3) OF THIS
17 SECTION IF THE EMPLOYER OR INSURER SHOWS BY A PREPONDERANCE OF
18 THE EVIDENCE THAT THE EVENT OR CONDITION DID NOT OCCUR IN THE
19 LINE OF DUTY.

20 (5) **Benefits.** IF A PEACE OFFICER SEEKS TREATMENT FOR PTSD,
21 THE EMPLOYER OR WORKERS' COMPENSATION INSURER SHALL PAY ALL
22 AUTHORIZED MEDICAL EXPENSES EVEN IF IT IS SUBSEQUENTLY
23 DETERMINED THE OFFICER WAS NOT DIAGNOSED WITH PTSD.

24 (6) **Reporting of information.** NOTWITHSTANDING ANY OTHER
25 PROVISION OF LAW, A HEALTH CARE PROVIDER OR OTHER PERSON OR
26 ENTITY SHALL REPORT INFORMATION ABOUT A PEACE OFFICER'S CLAIM FOR
27 PTSD BENEFITS TO THE EMPLOYER OR INSURER, SUBJECT TO THE

1 FOLLOWING LIMITATIONS:

2 (a) THE INFORMATION REPORTED MUST ENCOMPASS SPECIFIC
3 EVENTS AND CIRCUMSTANCES DIRECTLY RELATED TO THE SOLE CAUSE OF
4 PTSD IN THE LINE OF DUTY OR A SUBSTANTIAL AGGRAVATION OF A
5 PREEXISTING CONDITION WHERE THE AGGRAVATING CONDITION IS THE
6 CAUSE OF PTSD. THE HEALTH CARE PROVIDER SHALL USE THE MOST
7 RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF
8 MENTAL DISORDERS (DSM) PROVIDED BY THE AMERICAN PSYCHIATRIC
9 ASSOCIATION FOR THE DIAGNOSIS AND TREATMENT OF PTSD. A HEALTH
10 CARE PROVIDER OR OTHER PERSON OR ENTITY SHALL ONLY INCLUDE
11 OTHER ADDITIONAL MEDICAL INFORMATION IN THE DIAGNOSIS,
12 TREATMENT, AND REPORTING OF PTSD WHEN NECESSARY.

13 (b) A HEALTH CARE PROVIDER SHALL NOT REPORT THE PERSONAL
14 HISTORY OF A PEACE OFFICER EXCEPT IN THE CIRCUMSTANCES DESCRIBED
15 IN SUBSECTION (7) OF THIS SECTION.

16 (7) **Hearing.** (a) AN EMPLOYER, INSURER, OR A MAJORITY OF THE
17 MENTAL HEALTH PANEL MEMBERS SELECTED IN ACCORDANCE WITH
18 SUBSECTION (8) OF THIS SECTION MAY PETITION A DISTRICT OR CIRCUIT
19 COURT FOR AN IN CAMERA HEARING FOR THE PURPOSE OF REQUESTING AN
20 ORDER FOR THE RELEASE OF INFORMATION BEYOND THE SCOPE PERMITTED
21 BY SUBSECTION (6) OF THIS SECTION. THE HEARING MUST BE HELD WITHIN
22 THIRTY CALENDAR DAYS AFTER THE DATE THE PETITION IS FILED. NO
23 CONTINUANCE OF THE HEARING IS PERMITTED EXCEPT FOR GOOD CAUSE
24 SHOWN. THE COURT MAY ORDER AND REVIEW MEDICAL RECORDS AND
25 REPORTS BEFORE AND DURING THE IN CAMERA HEARING. COUNSEL OF
26 RECORD MUST HAVE THE OPPORTUNITY TO PRESENT OPENING AND
27 CLOSING STATEMENTS.

1 (b) A HEALTH CARE PROVIDER SHALL NOT PROVIDE AN EMPLOYER,
2 INSURER, OR A MAJORITY OF THE MENTAL HEALTH PANEL MEMBERS ANY
3 PERSONAL HISTORY OF A PEACE OFFICER OR INFORMATION REQUIRING A
4 COURT ORDER FROM OTHER PERSONS OR ENTITIES UNLESS THE COURT
5 FINDS THAT THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE
6 DISCLOSURE OF INFORMATION IS NECESSARY.

7 (c) THE COURT SHALL RULE ON THE PETITION NO LATER THAN TEN
8 CALENDAR DAYS AFTER THE CLOSE OF EVIDENCE. THE ORDER MUST
9 DESIGNATE THE SPECIFIC PERSONS, INCLUDING COUNSEL OF RECORD, WHO
10 ARE PERMITTED TO VIEW INFORMATION RELEASED UNDER THIS
11 SUBSECTION (7). A PERSON WHO IS PERMITTED TO VIEW THE INFORMATION
12 DESIGNATED IN THE ORDER IS SUBJECT TO CONTEMPT PROCEEDINGS IF THE
13 PERSON RELEASES ALL OR PART OF THE INFORMATION TO A THIRD PARTY
14 NOT DESIGNATED BY THE COURT. THE ORDER IS FINAL AND NOT SUBJECT
15 TO APPEAL.

16 (d) COUNSEL OF RECORD ARE PERMITTED TO SHARE THE CONTENTS
17 OF THE RELEASED INFORMATION WITH THE TRIAL COURT JUDGE AND THE
18 HEALTH CARE PROVIDERS WHO ARE LICENSED PHYSICIANS, PSYCHIATRISTS,
19 AND PSYCHOLOGISTS. THE SELECTED HEALTH CARE PROVIDERS MAY
20 COMMENT ON THE RELEASED INFORMATION IN A SEALED WRITTEN REPORT.
21 THE HEALTH CARE PROVIDERS SHALL PROVIDE A COPY OF ANY SEALED
22 WRITTEN REPORT THAT IS SUBMITTED AS EVIDENCE TO THE COUNSEL OF
23 RECORD AND THE TRIAL COURT JUDGE. ALL OPEN COURT REFERENCES TO
24 THE RELEASED INFORMATION AND THE CONTENT OF THE SEALED REPORTS
25 MUST BE REFERRED TO BY THE EXHIBIT DESIGNATION. THE DECISION OF
26 THE COURT MUST REFERENCE THE RELEASED INFORMATION AND THE
27 CONTENT OF THE SEALED REPORTS IN GENERAL TERMS WHEN PAYING

1 BENEFITS PURSUANT TO SUBSECTION (5) OF THIS SECTION.

2 (8) **Rights of dependents - mental health panel.** (a) A
3 DEPENDENT ENTITLED TO WORKERS' COMPENSATION BENEFITS MAY FILE
4 A CLAIM IF A PEACE OFFICER COMMITS SUICIDE AS A RESULT OF PTSD.

5 (b) THE CHIEF ADMINISTRATIVE LAW JUDGE EMPLOYED BY THE
6 OFFICE OF ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL
7 SHALL RANDOMLY SELECT A PANEL CONSISTING OF TWO LICENSED
8 PSYCHIATRISTS AND ONE LICENSED MENTAL HEALTH CARE PROVIDER
9 QUALIFIED TO DIAGNOSE PTSD FROM A LIST OF VOLUNTEERS.

10 (c) THE PANEL SHALL ISSUE A WRITTEN DECISION DETERMINING
11 WHETHER THE PEACE OFFICER'S DEATH IS A SUICIDE CAUSED BY PTSD
12 WITHIN ONE HUNDRED TWENTY DAYS AFTER THE CLAIM IS FILED. THE
13 DECISION OF THE PANEL IS FINAL AND NOT SUBJECT TO APPEAL.

14 (d) THE PANEL MAY SUBPOENA WITNESSES AND HEAR TESTIMONY,
15 SUBPOENA AND RECEIVE RECORDS AND REPORTS AS EVIDENCE, AND
16 ALLOW COUNSEL THE OPPORTUNITY TO PRESENT OPENING AND CLOSING
17 STATEMENTS.

18 (9) A PEACE OFFICER MUST FILE A CLAIM FOR WORKERS'
19 COMPENSATION BENEFITS WITHIN TWENTY-FOUR MONTHS AFTER THE DATE
20 OF THE EVENT OR CIRCUMSTANCES ALLEGED TO HAVE CAUSED
21 POST-TRAUMATIC STRESS DISORDER IN THE LINE OF DUTY IN ORDER TO BE
22 ELIGIBLE FOR THE BENEFITS.

23 **SECTION 2. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part will not take effect
3 unless approved by the people at the general election to be held in
4 November 2014 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.