

STATE OF NEW YORK

11062

IN ASSEMBLY

October 7, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Frontus) --
read once and referred to the Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to providing for
mental health screening and creating a presumption that post-traumatic
stress disorder is proximately caused by employment for law enforce-
ment officers and emergency medical services personnel

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. The mental hygiene law is amended by adding a new article
2 48 to read as follows:

ARTICLE 48

EMERGENCY SERVICES PERSONNEL MENTAL HEALTH

Section 48.01 Definitions.

48.03 Mental health screening.

48.05 Presumption of post-traumatic stress disorder.

§ 48.01 Definitions.

3 As used in this article, the following terms shall have the following
4 meanings:

5 (a) "Emergency medical services personnel" means a licensed individual
6 who functions within the emergency medical services system to provide
7 emergency aid, including, but not limited to, firefighters and uniformed
8 services.

9 (b) "Law enforcement officer" means a salaried and commissioned or
10 certified law enforcement officer of a police or sheriff's department or
11 a peace officer who is part of or administered by the state or a poli-
12 tical subdivision of the state.

13 (c) "Uniformed services" means individuals employed by the state or a
14 political subdivision of the state who wear a distinct uniform that
15 differentiates such individuals from members of the general public and
16 whose purpose is to maintain peace, security, safety and health of the
17 public.

§ 48.03 Mental health screening.

18 Any law enforcement officer or emergency medical services personnel
19 shall be required to submit to pre-employment mental health screenings
20

21 EXPLANATION--Matter in italics (underscored) is new; matter in brackets
22 [-] is old law to be omitted.

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1 and shall undergo mental health evaluations as part of regular medical
2 examinations. Such participation in screening and evaluations shall
3 assist to monitor changes in the mental health of law enforcement offi-
4 cers and emergency medical services personnel.

5 § 48.05 Presumption of post-traumatic stress disorder.

6 (a) If any law enforcement officer or emergency medical services
7 personnel are diagnosed with post-traumatic stress disorder by a
8 licensed physician, mental health professional or any practitioner qual-
9 ified to make such a diagnosis, and the condition was not revealed
10 during an initial employment medical screening examination or during a
11 subsequent medical review conducted pursuant to section 48.03 of this
12 article, such disorder shall be presumed to be proximately caused by
13 employment as a law enforcement officer or emergency medical services
14 personnel.

15 (b) The presumption created in subdivision (a) of this section may be
16 rebutted by a preponderance of evidence in a court of competent juris-
17 isdiction showing that a law enforcement officer or emergency medical
18 services personnel diagnosed with post-traumatic stress disorder engaged
19 in conduct or activities outside of the scope of his or her employment
20 that posed a significant risk of developing such disorder.

21 (c) When the presumption created in this section does not apply, it
22 shall not preclude any law enforcement officer or emergency medical
23 services personnel from demonstrating a causal connection between
24 employment and condition or injury by a preponderance of evidence in a
25 court of competent jurisdiction.

26 (d) Medical treatment based on the presumption created in this section
27 shall be provided by an employer as for a job-related condition or inju-
28 ry, unless and until a court of competent jurisdiction determines that
29 such presumption does not apply. If the court determines that such
30 presumption does not apply, or that the condition is not job-related,
31 the employer's workers' compensation insurance provider shall be reim-
32 bursed for health care costs by the medical or health insurance plan or
33 benefit provided for the law enforcement officer or emergency medical
34 services personnel by the employer.

35 § 2. This act shall take effect immediately.