

# STATE OF NEW YORK

5135

2023-2024 Regular Sessions

## IN ASSEMBLY

March 2, 2023

Introduced by M. of A. CLARK -- 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 enforcement officers and emergency medical services personnel

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

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

3 ARTICLE 48

4 EMERGENCY SERVICES PERSONNEL MENTAL HEALTH

5 Section 48.01 Definitions.

6 48.03 Mental health screening.

7 48.05 Presumption of post-traumatic stress disorder.

8 § 48.01 Definitions.

9 As used in this article, the following terms shall have the following  
10 meanings:

11 (a) "Emergency medical services personnel" means a licensed individual  
12 who functions within the emergency medical services system to provide  
13 emergency aid, including, but not limited to, firefighters and uniformed  
14 services.

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

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

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

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1 § 48.03 Mental health screening.

2 Any law enforcement officer or emergency medical services personnel  
3 shall be required to submit to pre-employment mental health screenings  
4 and shall undergo mental health evaluations as part of regular medical  
5 examinations. Such participation in screening and evaluations shall  
6 assist to monitor changes in the mental health of law enforcement offi-  
7 cers and emergency medical services personnel.

8 § 48.05 Presumption of post-traumatic stress disorder.

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

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

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

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

38 § 2. This act shall take effect immediately.