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:

Section 1. The mental hygiene law is amended by adding a new article 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.

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

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

(b) "Law enforcement officer" means a salaried and commissioned or certified law enforcement officer of a police or sheriff's department or a peace officer who is part of or administered by the state or a political subdivision of the state.

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

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

LBD07648-01-3

§ 48.03 Mental health screening.

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

§ 48.05 Presumption of post-traumatic stress disorder.

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

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

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

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

§ 2. This act shall take effect immediately.