

 KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

Arizona Revised Statutes Annotated  
Title 38. Public Officers and Employees (Refs & Annos)  
Chapter 4. Compensation and Insurance (Refs & Annos)  
Article 5. Employee Benefits (Refs & Annos)

A.R.S. § 38-673

§ 38-673. Traumatic event counseling for peace officers and firefighters; report; exceptions; definitions

Effective: August 3, 2018  
Currentness

**A.** Notwithstanding any other law, this state or a political subdivision of this state shall establish a program to provide peace officers and firefighters who are exposed to any one of the following events while in the course of duty up to twelve visits of licensed counseling, which may be provided via telemedicine, paid for by the employer:

1. Visually witnessing the death or maiming or visually witnessing the immediate aftermath of such a death or maiming of one or more human beings.
2. Responding to or being directly involved in a criminal investigation of an offense involving a dangerous crime against children as defined in § 13-705.
3. Requiring rescue in the line of duty where one's life was endangered.
4. Using deadly force or being subjected to deadly force in the line of duty, regardless of whether the peace officer or firefighter was physically injured.
5. Witnessing the death of another peace officer or firefighter while engaged in the line of duty.
6. Responding to or being directly involved in an investigation regarding the drowning or near drowning of a child.

**B.** If the licensed mental health professional determines that the peace officer or firefighter needs additional visits of licensed counseling beyond that which the peace officer or firefighter is entitled to under subsection A of this section and that the additional visits are likely to improve the peace officer's or firefighter's condition, the employer shall pay for up to an additional twenty-four visits, if the visits occur within one year after the first visit pursuant to this section.

**C.** An employer may not require a peace officer or firefighter who is receiving treatment pursuant to this section to use the peace officer's or firefighter's accrued paid vacation, personal leave or sick leave if the peace officer or firefighter leaves work to attend a treatment visit pursuant to this section.

**D.** If the licensed mental health professional determines that the peace officer or firefighter is not fit for duty while the peace officer or firefighter is receiving treatment pursuant to this section, the employer shall ensure that the peace officer or firefighter has no loss of pay and benefits for up to thirty calendar days per incident after the date the licensed mental health professional determines that the employee is not fit for duty if all of the following apply:

1. The peace officer or firefighter is unable to work light duty or the employer does not offer a light duty option.
2. The peace officer or firefighter has exhausted the peace officer's or firefighter's sick leave, vacation leave or other leave that is provided as part of the peace officer's or firefighter's benefits package.
3. If the employer offers short-term disability benefits, the employer offered and the peace officer or firefighter elected short-term disability benefits, but the peace officer or firefighter is not eligible to receive short-term disability benefits.
4. The employer does not have a supplemental program that provides pay and benefits after the occurrence of an injury. For the purposes of this paragraph, supplemental program that provides pay and benefits after the occurrence of an injury does not include a supplemental benefits plan established pursuant to § 38-961.

**E.** An employer shall allow a peace officer or firefighter to select the peace officer's or firefighter's own licensed mental health professional, except that if a licensed mental health professional declines to provide counseling pursuant to this section, the employer is not required to secure the services of that licensed mental health professional. The employer shall pay the licensed mental health professional pursuant to the schedule of fees that is fixed by the industrial commission of Arizona pursuant to § 23-908.

**F.** Payment by the employer for licensed counseling pursuant to this section does not create a presumption that a claim is compensable under § 23-1043.01, subsection B.

**G.** For each program established pursuant to this section, this state and each political subdivision of this state shall compile the following data for peace officers and firefighters:

1. For each category of persons, the total number of persons who have participated in the program.
2. For each category of persons, the average number of visits per person.
3. For each category of persons, the average number of months that a person participated in the program.
4. For each category of persons, the average number of days that a person who participated in the program missed work.

5. For each category of persons, the total number of persons who participated in the program and who subsequently filed a workers' compensation claim and the number of those claims that were approved and the number of those claims that were denied.

6. For each category of persons, of the total number of persons who have participated in the program, the percentage of persons who received additional visits under subsection B of this section.

7. For each category of persons, the total number of persons who were deemed not fit for duty by a licensed mental health professional pursuant to subsection D of this section.

8. For each employer, the total amount of work missed by each category of persons who participated in the program and how missed work was provided for by the employer or through employee benefits.

**H.** On or before September 1, 2019 and September 1 of each year thereafter, this state and each political subdivision of this state shall submit the data collected pursuant to subsection G of this section to the department of administration. On or before October 1, 2019 and October 1 of each year thereafter, the department of administration shall compile the data into a report and submit the report to the governor, the president of the senate, the speaker of the house of representatives, the chairperson of the senate health and human services committee, or its successor committee, the chairperson of the house of representatives health committee, or its successor committee, the chairperson of the senate commerce and public safety committee, or its successor committee, and the chairperson of the house of representatives judiciary and public safety committee, or its successor committee, and shall provide a copy of this report to the secretary of state. Subsection G of this section and this subsection do not authorize this state or a political subdivision of this state to compile and report data that is protected under the health insurance portability and accountability act of 1996 (P.L. 104-191; 110 Stat. 1936).

**I.** This section does not apply to a state employer that provides a program to its peace officers and firefighters that is characterized by all of the following:

1. The program is paid for by the employer.

2. The program provides licensed counseling for any issue. For licensed counseling related to trauma experienced while in the line of duty, the licensed counseling is provided on the request of the peace officer or firefighter and is in person.

3. The program offers at least twelve visits per year and will offer additional visits if the licensed mental health professional determines that additional visits are necessary.

**J.** For the purposes of this section:

1. "Licensed counseling" means counseling provided by a licensed mental health professional.

2. “Licensed mental health professional” means a psychiatrist or psychologist who is licensed pursuant to title 32, chapter 13, 17 or 19.1.<sup>1</sup>

**Credits**

Added by Laws 2018, Ch. 259, § 2.

**Editors' Notes**

**REPEAL**

<This section is repealed by Laws 2018, Ch. 259, § 3, effective January 1, 2023.>

**Footnotes**

1 Section 32-1401 et seq., 32-1800 et seq., or 32-2061 et seq.

A. R. S. § 38-673, AZ ST § 38-673

Current through legislation effective June 7, 2019 of the First Regular Session of the Fifty-Fourth Legislature (2019).