

SENATE SUBSTITUTE  
FOR  
SENATE BILL NO. 24  
AN ACT

To repeal section 320.400, RSMo, and to enact in lieu thereof two new sections relating to the provision of resources to first responders for mental health.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 320.400, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 190.1010 and 320.400, to read as follows:

190.1010. 1. As used in this section, the following terms shall mean:

(1) "Employee", a first responder employed by an employer;

(2) "Employer", the state, a unit of local government, or a public hospital or ambulance service that employs first responders;

(3) "First responder", a 911 dispatcher, paramedic, emergency medical technician, or a volunteer or full-time paid fire fighter;

(4) "Record", any record kept by a therapist or by an agency in the course of providing behavioral health care to a first responder concerning the first responder and the services provided. "Record" includes the personal notes of the therapist or agency, as well as all records maintained by a court that have been created in connection with, in preparation for, or as a result of the filing of any petition. "Record" does not include information that has been de-identified in accordance with the federal Health Insurance Portability and Accountability Act (HIPAA) and does not include a reference to the receipt of behavioral

22 health care noted during a patient history and physical or  
23 other summary of care;

24 (5) "Peer support advisor", a person approved by the  
25 law enforcement agency or the emergency services provider  
26 who voluntarily provides confidential support and assistance  
27 to employees experiencing personal or professional  
28 problems. An emergency services provider or law enforcement  
29 agency shall provide peer support advisors with an  
30 appropriate level of training in counseling to provide  
31 emotional and moral support;

32 (6) "Peer support counseling program", a program  
33 established by an employer to train employees to serve as  
34 peer support advisors in order to conduct peer support  
35 counseling sessions;

36 (7) "Peer support counseling session", communication  
37 with a peer support advisor designated by an employer. A  
38 peer support counseling session is accomplished primarily  
39 through listening, assessing, assisting with problem  
40 solving, making referrals to a professional when necessary,  
41 and conducting follow-up as needed;

42 (8) "Posttraumatic stress disorder", any psychological  
43 or behavioral health injury suffered by a first responder by  
44 and through their employment due to their exposures to  
45 stressful and life-threatening situations and rigors of the  
46 job, excluding a posttraumatic stress injury that arises  
47 solely as a result of a legitimate personnel action by the  
48 employer such as transfer, promotion, demotion, or  
49 termination, which shall not be considered a compensable  
50 injury under this section.

51 2. (1) Any communication made by an employee or peer  
52 support advisor in a peer support counseling session, as  
53 well as any oral or written information conveyed in the peer  
54 support counseling session shall be confidential and shall

55 not be disclosed by any person participating in the peer  
56 support counseling session or released to any person or  
57 entity. Any communication relating to a peer support  
58 counseling session made confidential under this section that  
59 is made between peer support advisors and the supervisors or  
60 staff of a peer support counseling program, or between the  
61 supervisor or staff of a peer support counseling program,  
62 shall be confidential and shall not be disclosed. The  
63 provisions of this section shall not be construed to  
64 prohibit any communications between counselors who conduct  
65 peer support counseling sessions or any communications  
66 between counselors and the supervisors or staff of a peer  
67 support counseling program.

68 (2) Any communication described in subdivision (1) of  
69 this subsection may be subject to a subpoena for good cause  
70 shown.

71 (3) The provisions of this subsection shall not apply  
72 to the following:

73 (a) Any threat of suicide or homicide made by a  
74 participant in a peer support counseling session or any  
75 information conveyed in a peer support counseling session  
76 related to a threat of suicide or homicide;

77 (b) Any information mandated by law or agency policy  
78 to be reported, including, but not limited to, domestic  
79 violence, child abuse or neglect, or elder abuse or neglect;

80 (c) Any admission of criminal conduct; or

81 (d) Any admission or act of refusal to perform duties  
82 to protect others or the employee of the emergency services  
83 provider or law enforcement agency.

84 (4) All communications, notes, records, and reports  
85 arising out of a peer support counseling session shall not  
86 be considered a public record subject to disclosure under  
87 chapter 610.

88           (5) A department or organization that establishes a  
89 peer support counseling program shall develop a policy or  
90 rule that imposes disciplinary measures against a peer  
91 support advisor who violates the confidentiality of the peer  
92 support counseling program by sharing information learned in  
93 a peer support counseling session with personnel who are not  
94 supervisors or staff of the peer support counseling program,  
95 unless otherwise exempted under the provisions of this  
96 subsection.

97           3. Any employer that creates a peer support program  
98 shall be subject to the provisions of this section. An  
99 employer shall ensure that peer support advisors receive  
100 appropriate training in counseling to conduct peer support  
101 counseling sessions. An employer may refer any person to a  
102 peer support advisor within the employer's organization, or  
103 if those services are not available with the employer, to  
104 another peer support counseling program that is available  
105 and approved by the employer. Notwithstanding any other  
106 provision of law to the contrary, an employer shall not  
107 mandate that any employee participate in a peer support  
108 counseling program.

          320.400. 1. For purposes of this section, the  
2 following terms mean:

3           (1) "Covered individual", a [firefighter] first  
4 responder who:

5           (a) Is a paid employee or is a volunteer [firefighter  
6 as defined in section 320.333];

7           (b) Has been assigned to at least five years of  
8 hazardous duty as a [firefighter] paid employee or volunteer;

9           (c) Was exposed to [an agent classified by the  
10 International Agency for Research on Cancer, or its  
11 successor organization, as a group 1 or 2A carcinogen, or  
12 classified as a cancer-causing agent by the American Cancer

13 Society, the American Association for Cancer Research, the  
14 Agency for Health Care Policy and Research, the American  
15 Society for Clinical Oncology, the National Institute for  
16 Occupational Safety and Health, or the United States  
17 National Cancer Institute] or diagnosed with a critical  
18 illness type;

19 (d) Was last assigned to hazardous duty [as a  
20 firefighter] within the previous fifteen years; and

21 (e) In the case of a diagnosis of cancer, is not  
22 seventy years of age or older at the time of the diagnosis  
23 of cancer;

24 (2) "Critical illness", one of the following:

25 (a) In the case of a cancer claim, exposure to an  
26 agent classified by the International Agency for Research on  
27 Cancer, or its successor organization, as a group 1 or 2A  
28 carcinogen, or classified as a cancer-causing agent by the  
29 American Cancer Society, the American Association for Cancer  
30 Research, the Agency for Health Care Policy and Research,  
31 the American Society for Clinical Oncology, the National  
32 Institute for Occupational Safety and Health, or the United  
33 States National Cancer Institute;

34 (b) In the case of a post traumatic stress injury  
35 claim, such an injury that is diagnosed by a psychiatrist  
36 licensed pursuant to chapter 334 or a psychologist licensed  
37 pursuant to chapter 337 and established by a preponderance  
38 of the evidence to have been caused by the employment  
39 conditions of the first responder;

40 (3) "Dependent", the same meaning as in section  
41 287.240;

42 (4) "Emergency medical technician-basic", the same  
43 meaning as in section 190.100;

44 (5) "Emergency medical technician-paramedic", the same  
45 meaning as in section 190.100";

46            [(3)] (6) "Employer", any political subdivision of the  
47 state;

48            (7) "First responder", a firefighter, emergency  
49 medical technician-basic or emergency medical technician-  
50 paramedic, or telecommunicator;

51            (8) "Post traumatic stress injury", any psychological  
52 or behavioral health injury suffered by and through the  
53 employment of an individual due to exposure to stressful and  
54 life threatening situations and rigors of the employment,  
55 excluding any post traumatic stress injuries that may arise  
56 solely as a result of a legitimate personnel action by an  
57 employer such as a transfer, promotion, demotion, or  
58 termination;

59            (9) "Telecommunicator", the same meaning as in  
60 subsection 650.320;

61            [(4)] (10) "Voluntary [firefighter cancer] critical  
62 illness benefits pool" or "pool", an entity described in  
63 section 537.620 that is established for the purposes of this  
64 section;

65            (11) "Volunteer", a volunteer firefighter, as defined  
66 in section 320.333, volunteer emergency medical technician-  
67 basic, emergency medical technician-paramedic, or  
68 telecommunicator.

69            2. (1) Three or more employers may create a  
70 [voluntary firefighter cancer benefits] pool for the purpose  
71 of this section. An employer or covered individual may make  
72 contributions into the [voluntary firefighter cancer  
73 benefits] pool established for the purpose of this section.  
74 The contribution levels and award levels shall be set by the  
75 board of trustees of the pool.

76            (2) For an employer or covered individual that chooses  
77 to make contributions into the [voluntary firefighter cancer  
78 benefits] pool, the pool shall provide the minimum benefits

79 specified by the board of trustees of the pool to covered  
80 individuals, based on the award level of the [cancer]  
81 critical illness at the time of diagnosis, after the  
82 employer becomes a participant.

83 (3) Benefit levels for cancer shall be established by  
84 the board of trustees of the pool based on the category and  
85 stage of the cancer. Benefit levels for a post traumatic  
86 stress injury shall be established by the board of trustees  
87 of the pool. Awards of benefits may be made to the same  
88 individual for both cancer and post traumatic stress injury  
89 provided the qualifications for both awards are met.

90 (4) In addition to [an] a cancer award pursuant to  
91 subdivision (3) of this subsection:

92 (a) A payment may be made from the pool to a covered  
93 individual for the actual award, up to twenty-five thousand  
94 dollars, for rehabilitative or vocational training  
95 employment services and educational training relating to the  
96 cancer diagnosis;

97 (b) A payment may be made to covered individual of up  
98 to ten thousand dollars if the covered individual incurs  
99 cosmetic disfigurement costs resulting from cancer.

100 (5) If the cancer is diagnosed as terminal cancer, the  
101 covered individual may receive a lump-sum payment of twenty-  
102 five thousand dollars as an accelerated payment toward the  
103 benefits due based on the benefit levels established  
104 pursuant to subdivision (3) of this subsection.

105 (6) The covered individual may receive additional  
106 awards if the cancer increases in award level, but the  
107 amount of any benefit paid earlier for the same cancer may  
108 be subtracted from the new award.

109 (7) If a covered individual dies while owed benefits  
110 pursuant to this section, the benefits shall be paid to the  
111 dependent or domestic partner, if any, at the time of

112 death. If there is no dependent or domestic partner, the  
113 obligation of the pool to pay benefits shall cease.

114 (8) If a covered individual returns to the same  
115 position of employment after a cancer diagnosis, the covered  
116 individual may receive benefits in this section for any  
117 subsequent new type of covered cancer diagnosis.

118 (9) The cancer benefits payable pursuant to this  
119 section shall be reduced by twenty-five percent if a covered  
120 individual used a tobacco product within the five years  
121 immediately preceding the cancer diagnosis.

122 (10) A cancer claim for benefits from the pool shall  
123 be filed no later than two years after the diagnosis of the  
124 cancer. The claim for each type of cancer needs to be filed  
125 only once to allow the pool to increase the award level  
126 pursuant to subdivision (3) of this subsection.

127 (11) A payment may be made from the pool to a covered  
128 individual for the actual award, up to ten thousand dollars,  
129 for seeking treatment with a psychiatrist licensed pursuant  
130 to chapter 334 or a psychologist licensed pursuant to  
131 chapter 337 and any subsequent courses of treatment  
132 recommended by such licensed individuals. If a covered  
133 individual returns to the same position of employment after  
134 a post traumatic stress injury diagnosis, the covered  
135 individual may receive benefits in this section for the  
136 continued treatment of such injury or any subsequently  
137 covered post traumatic stress injury diagnosis.

138 (12) For purposes of all other employment policies and  
139 benefits that are not workers' compensation benefits payable  
140 under chapter 287, health insurance, and any benefits paid  
141 pursuant to chapter 208, a covered individual's [**cancer**]  
142 critical illness diagnosis shall be treated as an on-the-job  
143 injury or illness.



144           3. The board of trustees of [the pool] a pool created  
145 pursuant to this section may:

146           (1) Create a program description to further define or  
147 modify the benefits of this section;

148           (2) Modify the contribution rates, benefit levels,  
149 including the maximum amount, consistent with subdivision  
150 (1) of this subsection, and structure of the benefits based  
151 on actuarial recommendations and with input from a committee  
152 of the pool; and

153           (3) Set a maximum amount of benefits that may be paid  
154 to a covered individual for each [cancer] critical illness  
155 diagnosis.

156           4. The board of trustees of the pool shall be  
157 considered a public governmental body and shall be subject  
158 to all of the provisions of chapter 610.

159           5. A pool may accept or apply for any grants or  
160 donations from any private or public source.

161           6. (1) Any pool may apply to the state fire marshal  
162 for a grant for the [purpose of establishing a voluntary  
163 firefighter cancer benefits] pool. The state fire marshal  
164 shall disburse grants to the pool upon receipt of the  
165 application.

166           (2) The state fire marshal may grant money disbursed  
167 under section 287.245 to be used for the purpose of setting  
168 up a pool.

169           (3) This subsection shall expire on June 30, [2023]  
170 2028.

171           7. (1) This subsection shall not affect any  
172 determination as to whether a covered individual's [cancer]  
173 critical illness arose out of and in the course of  
174 employment and is a compensable injury pursuant to chapter  
175 287. Receipt of benefits from [the] a pool under this

176 section shall not be considered competent evidence or proof  
177 by itself of a compensable injury under chapter 287.

178 (2) Should it be determined that a covered  
179 individual's ~~[cancer]~~ critical illness arose out of and in  
180 the course of employment and is a compensable injury under  
181 chapter 287, the compensation and death benefit provided  
182 under chapter 287 shall be reduced one hundred percent by  
183 any benefits received from the pool under this section.

184 (3) The employer in any claim made pursuant to chapter  
185 287 shall be subrogated to the right of the employee or to  
186 the dependent or domestic partner to receive benefits from  
187 ~~[the]~~ a pool and such employer may recover any amounts which  
188 such employee or the dependent or domestic partner would  
189 have been entitled to recover from ~~[the]~~ a pool under this  
190 section. Any receipt of benefits from the pool under this  
191 section shall be treated as an advance payment by the  
192 employer, on account of any future installments of benefits  
193 payable pursuant to chapter 287.