

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 24
102ND GENERAL ASSEMBLY

1080H.08C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 287.245 and 320.400, RSMo, and to enact in lieu thereof three new sections relating to the provision of resources to first responders for mental health.

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

Section A. Sections 287.245 and 320.400, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 190.1010, 287.245, and 320.400, to read as
3 follows:

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

- 2 **(1) "Employee", a first responder employed by an employer;**
3 **(2) "Employer", the state, a unit of local government, or a public hospital or**
4 **ambulance service that employs first responders;**
5 **(3) "First responder", a 911 dispatcher, paramedic, emergency medical**
6 **technician, or a volunteer or full-time paid firefighter;**
7 **(4) "Peer support advisor", a person approved by the employer who voluntarily**
8 **provides confidential support and assistance to employees experiencing personal or**
9 **professional problems. An employer shall provide peer support advisors with an**
10 **appropriate level of training in counseling to provide emotional and moral support;**
11 **(5) "Peer support counseling program", a program established by an employer**
12 **to train employees to serve as peer support advisors in order to conduct peer support**
13 **counseling sessions;**
14 **(6) "Peer support counseling session", communication with a peer support**
15 **advisor designated by an employer. A peer support counseling session is accomplished**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 primarily through listening, assessing, assisting with problem solving, making referrals
17 to a professional when necessary, and conducting follow-up as needed;

18 (7) "Record", any record kept by a therapist or by an agency in the course of
19 providing behavioral health care to a first responder concerning the first responder and
20 the services provided. "Record" includes the personal notes of the therapist or agency,
21 as well as all records maintained by a court that have been created in connection with, in
22 preparation for, or as a result of the filing of any petition. "Record" does not include
23 information that has been de-identified in accordance with the federal Health Insurance
24 Portability and Accountability Act (HIPAA) and does not include a reference to the
25 receipt of behavioral health care noted during a patient history and physical or other
26 summary of care.

27 2. (1) Any communication made by an employee or peer support advisor in a
28 peer support counseling session, as well as any oral or written information conveyed in
29 the peer support counseling session, shall be confidential and shall not be disclosed by
30 any person participating in the peer support counseling session or released to any
31 person or entity. Any communication relating to a peer support counseling session
32 made confidential under this section that is made between peer support advisors and the
33 supervisors or staff of a peer support counseling program, or between the supervisor
34 and staff of a peer support counseling program, shall be confidential and shall not be
35 disclosed. The provisions of this section shall not be construed to prohibit any
36 communications between counselors who conduct peer support counseling sessions or
37 any communications between counselors and the supervisors or staff of a peer support
38 counseling program.

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

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

42 (a) Any threat of suicide or homicide made by a participant in a peer support
43 counseling session or any information conveyed in a peer support counseling session
44 related to a threat of suicide or homicide;

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

47 (c) Any admission of criminal conduct; or

48 (d) Any admission or act of refusal to perform duties to protect others or the
49 employee.

50 (4) All communications, notes, records, and reports arising out of a peer support
51 counseling session shall not be considered public records subject to disclosure under
52 chapter 610.

53 **(5) A department or organization that establishes a peer support counseling**
54 **program shall develop a policy or rule that imposes disciplinary measures against a peer**
55 **support advisor who violates the confidentiality of the peer support counseling program**
56 **by sharing information learned in a peer support counseling session with personnel who**
57 **are not supervisors or staff of the peer support counseling program unless otherwise**
58 **exempted under the provisions of this subsection.**

59 **3. Any employer that creates a peer support counseling program shall be subject**
60 **to the provisions of this section. An employer shall ensure that peer support advisors**
61 **receive appropriate training in counseling to conduct peer support counseling sessions.**
62 **An employer may refer any person to a peer support advisor within the employer's**
63 **organization or, if those services are not available with the employer, to another peer**
64 **support counseling program that is available and approved by the employer.**
65 **Notwithstanding any other provision of law to the contrary, an employer shall not**
66 **mandate that any employee participate in a peer support counseling program.**

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

2 (1) "Association", volunteer fire protection associations as defined in section
3 320.300;

4 (2) "State fire marshal", the state fire marshal selected under the provisions of
5 sections 320.200 to 320.270;

6 (3) "Volunteer firefighter", the same meaning as in section 287.243;

7 (4) "Voluntary [~~firefighter cancer~~] **critical illness** benefits pool" or "pool", the same
8 meaning as in section 320.400.

9 2. (1) Any association may apply to the state fire marshal for a grant for the purpose
10 of funding such association's costs related to workers' compensation insurance premiums for
11 volunteer firefighters.

12 (2) Any voluntary [~~firefighter cancer~~] **critical illness** benefits pool may apply to the
13 state fire marshal for a grant for the [~~purpose of establishing a~~] voluntary [~~firefighter cancer~~]
14 **critical illness** benefits pool. [~~This subdivision shall expire June 30, 2023.~~]

15 3. Subject to appropriations, the state fire marshal may disburse grants to any
16 applying volunteer fire protection association subject to the following schedule:

17 (1) Associations which had zero to five volunteer firefighters receive workers'
18 compensation benefits from claims arising out of and in the course of the prevention or
19 control of fire or the underwater recovery of drowning victims in the preceding calendar year
20 shall be eligible for two thousand dollars in grant money;

21 (2) Associations which had six to ten volunteer firefighters receive workers'
22 compensation benefits from claims arising out of and in the course of the prevention or

23 control of fire or the underwater recovery of drowning victims in the preceding calendar year
24 shall be eligible for one thousand five hundred dollars in grant money;

25 (3) Associations which had eleven to fifteen volunteer firefighters receive workers'
26 compensation benefits from claims arising out of and in the course of the prevention or
27 control of fire or the underwater recovery of drowning victims in the preceding calendar year
28 shall be eligible for one thousand dollars in grant money;

29 (4) Associations which had sixteen to twenty volunteer firefighters receive workers'
30 compensation benefits from claims arising out of and in the course of the prevention or
31 control of fire or the underwater recovery of drowning victims in the preceding calendar year
32 shall be eligible for five hundred dollars in grant money.

33 4. Grant money disbursed under this section shall only be used for the purpose of
34 paying for the workers' compensation insurance premiums of volunteer firefighters or
35 ~~establishing~~ **for the benefit of** a voluntary ~~firefighter cancer~~ **critical illness** benefits pool.

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

2 (1) "Covered individual", a ~~firefighter~~ **first responder** who:

3 (a) Is a paid employee or is a volunteer ~~firefighter as defined in section 320.333~~;

4 (b) Has been assigned to at least five years of hazardous duty as a ~~firefighter~~ **paid**
5 **employee or volunteer**;

6 (c) Was exposed to ~~an agent classified by the International Agency for Research on~~
7 ~~Cancer, or its successor organization, as a group 1 or 2A carcinogen, or classified as a cancer-~~
8 ~~causing agent by the American Cancer Society, the American Association for Cancer~~
9 ~~Research, the Agency for Health Care Policy and Research, the American Society for Clinical~~
10 ~~Oncology, the National Institute for Occupational Safety and Health, or the United States~~
11 ~~National Cancer Institute]~~ **or diagnosed with a critical illness type**;

12 (d) Was last assigned to hazardous duty ~~as a firefighter~~ within the previous fifteen
13 years; and

14 (e) **In the case of a diagnosis of cancer**, is not seventy years of age or older at the
15 time of the diagnosis of cancer;

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

17 (a) **In the case of a cancer claim, exposure to an agent classified by the**
18 **International Agency for Research on Cancer, or its successor organization, as a group 1**
19 **or 2A carcinogen, or classified as a cancer-causing agent by the American Cancer**
20 **Society, the American Association for Cancer Research, the Agency for Healthcare**
21 **Research and Quality, the American Society of Clinical Oncology, the National Institute**
22 **for Occupational Safety and Health, or the United States National Cancer Institute;**

23 (b) **In the case of a posttraumatic stress injury claim, such an injury that is**
24 **diagnosed by a psychiatrist licensed pursuant to chapter 334 or a psychologist licensed**

25 **pursuant to chapter 337 and established by a preponderance of the evidence to have**
26 **been caused by the employment conditions of the first responder;**

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

28 ~~[(3)]~~ (4) "Emergency medical technician-basic", the same meaning as in section
29 **190.100;**

30 (5) "Emergency medical technician-paramedic", the same meaning as in section
31 **190.100;**

32 (6) "Employer", any political subdivision of the state;

33 ~~[(4)]~~ (7) "First responder", a firefighter, emergency medical technician-basic or
34 emergency medical technician-paramedic, or telecommunicator;

35 (8) "Posttraumatic stress injury", any psychological or behavioral health injury
36 suffered by and through the employment of an individual due to exposure to stressful
37 and life-threatening situations and rigors of the employment, excluding any
38 posttraumatic stress injuries that may arise solely as a result of a legitimate
39 personnel action by an employer such as a transfer, promotion, demotion, or
40 termination;

41 (9) "Telecommunicator", the same meaning as in section 650.320;

42 (10) "Voluntary ~~[firefighter cancer]~~ critical illness benefits pool" or "pool", an entity
43 described in section 537.620 that is established for the purposes of this section;

44 (11) "Volunteer", a volunteer firefighter, as defined in section 320.333; volunteer
45 emergency medical technician-basic; volunteer emergency medical technician-
46 paramedic; or volunteer telecommunicator.

47 2. (1) Three or more employers may create a ~~[voluntary firefighter cancer benefits]~~
48 pool for the purpose of this section. **Notwithstanding the provisions of sections 537.620 to**
49 **537.650 to the contrary, a pool created pursuant to this section may allow covered**
50 **individuals to join the pool.** An employer or covered individual may make contributions
51 into the ~~[voluntary firefighter cancer benefits]~~ pool established for the purpose of this section.
52 **Any professional organization formed for the purpose, in whole or in part, of**
53 **representing or providing resources for any covered individual may make contributions**
54 **to the pool on behalf of any covered individual without the professional organization**
55 **itself joining the pool.** The contribution levels and award levels shall be set by the board of
56 trustees of the pool.

57 (2) For a covered individual or an employer that chooses to make contributions into
58 the ~~[voluntary firefighter cancer benefits]~~ pool, the pool shall provide the minimum benefits
59 specified by the board of trustees of the pool to covered individuals, based on the award level
60 of the ~~[cancer]~~ **critical illness** at the time of diagnosis, after the employer or covered
61 **individual** becomes a participant.

62 (3) Benefit levels **for cancer** shall be established by the board of trustees of the pool
63 based on the category and stage of the cancer. **Benefit levels for a posttraumatic stress**
64 **injury shall be established by the board of trustees of the pool. Awards of benefits may**
65 **be made to the same individual for both cancer and posttraumatic stress injury**
66 **provided the qualifications for both awards are met.**

67 (4) In addition to ~~an~~ **a cancer** award pursuant to subdivision (3) of this subsection:

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

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

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

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

80 (7) If a covered individual dies while owed benefits pursuant to this section, the
81 benefits shall be paid to the dependent or domestic partner, if any, at the time of death. If
82 there is no dependent or domestic partner, the obligation of the pool to pay benefits shall
83 cease.

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

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

90 (10) A **cancer** claim for benefits from the pool shall be filed no later than two years
91 after the diagnosis of the cancer. The claim for each type of cancer needs to be filed only
92 once to allow the pool to increase the award level pursuant to subdivision (3) of this
93 subsection.

94 (11) **A payment may be made from the pool to a covered individual for the actual**
95 **award, up to ten thousand dollars, for seeking treatment with a psychiatrist licensed**
96 **pursuant to chapter 334 or a psychologist licensed pursuant to chapter 337 and any**
97 **subsequent courses of treatment recommended by such licensed individuals. If a**
98 **covered individual returns to the same position of employment after a posttraumatic**

99 **stress injury diagnosis, the covered individual may receive benefits in this section for the**
100 **continued treatment of such injury or any subsequently covered posttraumatic stress**
101 **injury diagnosis.**

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

106 3. The board of trustees of ~~[the pool]~~ **a pool created pursuant to this section** may:

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

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

112 (3) Set a maximum amount of benefits that may be paid to a covered individual for
113 each ~~[cancer]~~ **critical illness** diagnosis.

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

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

118 6. (1) Any pool may apply to the state fire marshal for a grant for the ~~[purpose of~~
119 ~~establishing a voluntary firefighter cancer benefits]~~ pool. The state fire marshal shall disburse
120 grants to the pool upon receipt of the application.

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

123 ~~[(3) This subsection shall expire on June 30, 2023.]~~

124 7. (1) This ~~[subsection]~~ **section** shall not affect any determination as to whether a
125 covered individual's ~~[cancer]~~ **critical illness** arose out of and in the course of employment and
126 is a compensable injury pursuant to chapter 287. Receipt of benefits from ~~[the]~~ **a pool** under
127 this section shall not be considered competent evidence or proof by itself of a compensable
128 injury under chapter 287.

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

133 (3) The employer in any claim made pursuant to chapter 287 shall be subrogated to
134 the right of the employee or to the dependent or domestic partner to receive benefits from
135 ~~[the]~~ **a pool** and such employer may recover any amounts which such employee or the

136 dependent or domestic partner would have been entitled to recover from ~~the~~ a pool under
137 this section. Any receipt of benefits from the pool under this section shall be treated as an
138 advance payment by the employer, on account of any future installments of benefits payable
139 pursuant to chapter 287.

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