

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Banking and Insurance

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BILL: SB 664

INTRODUCER: Senator Bradley and others

SUBJECT: Posttraumatic Stress Disorder Workers' Compensation for Law Enforcement,  
Correctional, and Correctional Probation Officers

DATE: February 2, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AEG</u>	_____
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 664 revises the current definition of first responders, for purposes of workers' compensation coverage for posttraumatic stress disorder (PTSD) benefits, to include part-time law enforcement officers and auxiliary law enforcement officers.

Further, SB 664 provides workers' compensation indemnity benefits in specified circumstances for posttraumatic stress disorder (PTSD) suffered by a correctional officer or correctional probation officer regardless of whether the individual's PTSD is accompanied by a physical injury requiring medical treatment. SB 664 provides that PTSD is a compensable occupational disease for a correctional officer (CO) or correctional probation officer (CPO) if the PTSD resulted from a CO or a CPO acting within the course and scope of employment. Additionally, an authorized treating psychiatrist must examine and diagnose the CO or CPO as having PTSD due to experiencing at least one of the delineated qualifying events.

- The Division of Risk Management of the Department of Financial Services (DFS) estimates that the state Risk Management Trust Fund could potentially pay as much as \$20 - \$40 million over the first three years of the bill becoming law, and this amount would be expected to grow exponentially over time. The DFS anticipates five additional Workers' Compensation Specialists may be needed at a recurring cost of \$70,991 and non-recurring of \$4,591 per adjuster: \$354,955 Salaries and Benefits (recurring) \$1,525 Transfer to DMS (recurring) \$31,995 Expenses (recurring) \$22,955 Expenses (non-recurring).

The bill would have an indeterminate negative fiscal impact on local governments.

## II. Present Situation:

### Post-Traumatic Stress Disorder (PTSD)

The American Psychiatric Association (APA) provides diagnostic criteria for mental disorders, including posttraumatic stress disorder (PTSD), in its *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5). PTSD is a psychiatric disorder that can occur in people who have experienced or witnessed a traumatic event such as a natural disaster, a serious accident, a terrorist act, war, combat, rape, or who have been threatened with death, sexual violence or serious injury.<sup>1</sup>

### Diagnosis

A diagnosis of PTSD requires exposure to an upsetting traumatic event.<sup>2</sup> Symptoms fall into the following four categories: intrusion, avoidance, alterations in cognition and mood, and alterations in arousal and reactivity.<sup>3</sup> In order to diagnose a person with PTSD, symptoms must last for more than a month and must cause significant distress or problems in the individual's daily functioning.<sup>4</sup>

### Prevalence Rates

The exact prevalence rate for PTSD is difficult to ascertain. About 15 million adults will have PTSD during a given year.<sup>5</sup> About 8 percent of females develop PTSD during their lives compared with about 4 percent of males.<sup>6</sup> Approximately 6–7 percent of the adult population in the United States will have PTSD at some point during their lifetime.<sup>7</sup> Among the U.S. military veteran population, the prevalence variance in studies has ranged from approximately 30 percent of the Vietnam era veterans to more recently 13–14 percent of veterans serving in the dual wars in Iraq and Afghanistan over the last 20 years.<sup>8</sup>

Although estimates vary across occupations and the general population, some studies indicate that first responders and other professionals who are exposed to potentially traumatic events in their workplace are more likely to develop PTSD compared to the general population.<sup>9</sup> An estimated 30 percent of first responders develop behavioral health conditions, including depression and PTSD, as compared with 20 percent of the general population.<sup>10</sup> A 2015 survey of 4,000 first responders found that 6.6 percent had attempted suicide, which is more than 10 times the rate in the general population.<sup>11</sup> Military veterans deployed from 2001 to 2007 had a 41

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<sup>1</sup> See American Psychiatric Association, *What is Posttraumatic Stress Disorder?* Available at [What Is PTSD? \(psychiatry.org\)](https://www.psychiatry.org) (Aug. 2020) (last visited Jan. 29, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> National Center for PTSD, *How Common is PTSD in Adults?* Available at [How Common is PTSD in Adults? - PTSD: National Center for PTSD \(va.gov\)](https://www.ptsd.va.gov) (last visited Jan. 29, 2022).

<sup>6</sup> *Id.*

<sup>7</sup> *Mo Med.* 2021 Nov-Dec.; 118(6): 546–551.

<sup>8</sup> *Id.*

<sup>9</sup> *Psychological Trauma: Theory, Practice, and Policy* 2015, Vol. 7, No. 5, 500-506.

<sup>10</sup> SAMHSA, *First Responders' Behavioral Health Concerns, Emergency Response, and Trauma* (May 2018) available at [First Responders: Behavioral Health Concerns, Emergency Response, and Trauma \(samhsa.gov\)](https://www.samhsa.gov) (last visited Jan. 29, 2022). The term, "first responders," includes emergency medical services, firefighters, and police officers.

<sup>11</sup> FireRescue1, *Increasing suicide rates among first responders spark concern*, available at [Increasing suicide rates among first responders spark concern \(firerescue1.com\)](https://www.firerescue1.com) (last visited Jan. 28, 2022).

percent higher suicide risk than the general population, according to the Department of Veterans Affairs.<sup>12</sup>

A study<sup>13</sup> of the prevalence rates of PTSD among U.S. correction professionals included the following findings:

- The prevalence rate for symptoms of PTSD experienced within the past 30 days was 27 percent for the entire sample, and 31 percent and 22 percent for males and females, respectively;
- A higher rate of PTSD, 31 percent, was found among security personnel compared to all other types of personnel; and
- 100 percent of participants confirmed exposure to at least one VID (violence, injury, death) event during their career, with 28 VID events being the average number experienced by participants during their career.

In reference to the entire sample of correction professionals analyzed, PTSD-positive participants reported significantly:

- More exposure to workplace VID and negative VID-related emotions,
- Higher levels of depression, anxiety, and stress,
- More absenteeism, health services utilization, health conditions, and substance use, and
- Lower levels of pro-health behaviors, life functioning, and life satisfaction.<sup>14</sup>

### **Florida Workers' Compensation System**

Employers are required to pay compensation or furnish benefits that are required under ch. 440, F.S., if an employee suffers an accidental compensable injury or death arising out of work performed in the course and the scope of the employment.<sup>15</sup> Generally, employers may secure coverage from an authorized carrier, qualify as a self-insurer,<sup>16</sup> or purchase coverage from the Workers' Compensation Joint Underwriting Association, the insurer of last resort.<sup>17</sup>

Workers' compensation is the injured employee's remedy for "compensable" workplace injuries.<sup>18</sup> An accidental compensable injury must be the major contributing cause of any resulting injury, meaning that the cause must be more than 50 percent responsible for the injury as compared to all other causes combined, as demonstrated by medical evidence only.<sup>19</sup> An injury or disease caused by a toxic substance is not an injury by accident arising out of employment unless there is clear and convincing evidence establishing that exposure to the

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<sup>12</sup> *Id.*

<sup>13</sup> Spinaris, Caterina, et. al. Posttraumatic Stress Disorder in United States Corrections Professionals: Prevalence and Impact on Health and Functioning (2012), available at [Posttraumatic Stress Disorder in United States Corrections Professionals: Prevalence and Impact on Health and Functioning | Office of Justice Programs \(ojp.gov\)](https://www.ojp.gov/ncjrs/pdffiles1/250001.pdf) (last visited Jan. 29, 2022).

<sup>14</sup> *Id.*

<sup>15</sup> Section 440.09(1), F.S.

<sup>16</sup> Section 440.38, F.S.

<sup>17</sup> Section 627.311(5)(a), F.S.

<sup>18</sup> "Compensable" means a determination by a carrier or judge of compensation claims that a condition suffered by an employee results from an injury arising out of and in the course of employment. Section 440.13(1)(d), F.S.

<sup>19</sup> Section 440.09(1), F.S.

specific substance caused the injury or diseases sustained by the employee.<sup>20</sup> Injured workers are entitled to receive all medically necessary remedial treatment, care, and attendance, including medications, medical supplies, durable medical equipment, and prosthetics, for as long as the nature of the injury and process of recovery requires.<sup>21</sup>

Indemnity benefits only become payable to employees who are disabled for at least eight days due to a compensable workplace injury.<sup>22</sup> These benefits are generally payable at 66 2/3 percent of the employee's average weekly wage,<sup>23</sup> up to the maximum weekly benefit established by law.<sup>24</sup> Indemnity benefits fall into one of four categories: temporary partial disability, temporary total disability, permanent partial disability, and permanent total disability, as described below:

- Temporary partial disability and temporary total disability benefits are payable for up to a combined total of 260 weeks.<sup>25</sup>
- Permanent partial disability benefits are payable as impairment income benefits that are provided for a variable number of weeks depending upon the value of the injured worker's permanent impairment rating pursuant to a statutory formula.<sup>26</sup>
- Permanent total disability benefits are payable until the age of 75, unless the work-related accident occurs after the worker's 70<sup>th</sup> birthday, then the benefit is paid for five years.<sup>27</sup>

Section 440.15(3), F.S., provides that permanent impairment benefits are limited for a permanent psychiatric impairment to one percent permanent impairment.

### ***General Compensability for Mental or Nervous Injuries***

Section 440.093, F.S., sets forth the conditions under which a mental or nervous injury is compensable. A mental or nervous injury due to only stress, fright, or excitement is not an injury by accident arising out of the employment. Mental or nervous injuries without an accompanying physical injury requiring medical treatment are not compensable. In addition, a physical injury resulting from a mental or nervous injury unaccompanied by a physical trauma requiring medical treatment is not compensable.

Further, s. 440.093, F.S., provides that mental or nervous injuries occurring as a manifestation of an injury compensable under ch. 440, F.S., must be demonstrated by clear and convincing medical evidence. The compensable physical injury must be the major contributing cause of the mental or nervous injury. The law also limits the duration of temporary benefits for a

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<sup>20</sup> Section 440.02(1), F.S.

<sup>21</sup> Section 440.13(2)(a), F.S.

<sup>22</sup> Section 440.12(1), F.S.

<sup>23</sup> An injured workers' average weekly wage is an amount equal to one-thirteenth of the total amount of wages earned during the 13 weeks immediately preceding the compensable accident pursuant to s. 440.14(1), F.S.

<sup>24</sup> Section 440.15(1)-(4), F.S.

<sup>25</sup> Section 440.15(2) and (4), F.S. Section 440.15(2)(a), F.S., specify that temporary total disability benefits are payable for 104 weeks; however, the Florida Supreme Court has found this provision unconstitutional and revived the standard of 260 weeks of payable temporary total disability benefits. *Westphal v. City of St. Petersburg*, 194 So.3d 311 (Fla. Jun. 9, 2016). Section 440.15(4)(e), F.S., provides that temporary partial disability benefits; however, the 1st DCA applied the holding in *Westphal* to these benefits finding the limitation unconstitutional and reverted the limitation to the 260 weeks previously allowed. *Jones v. Food Lion, Inc.*, No. 1D15-3488, 2016 Fla. App. LEXIS 16710 (Fla. 1st DCA Nov. 9, 2016).

<sup>26</sup> Section 440.15(3), F.S.

<sup>27</sup> Section 440.15(1), F.S.

compensable mental or nervous injury to no more than six months after the employee reaches maximum medical improvement.

### *Current PTSD Statutory Benefits for First Responders*

In 2018, the Legislature revised the standards for determining compensability of PTSD as an occupational disease under workers' compensation coverage for first responders.<sup>28</sup> As a result, first responders who meet certain conditions may access indemnity and medical benefits for PTSD without an accompanying physical injury. A "first responder" is a law enforcement officer, as defined in s. 943.10, F.S.,<sup>29</sup> a firefighter as defined in s. 633.102, F.S.,<sup>30</sup> or an emergency medical technician or paramedic as defined in s. 401.23, F.S.,<sup>31</sup> employed by state or local government. Further, a volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is considered a first responder of the state or local government.<sup>32</sup>

Section 112.1815, F.S., provides workers' compensation indemnity benefits in specified circumstances for PTSD suffered by a law enforcement officer, a firefighter, an emergency medical technician, or a paramedic regardless of whether the individual's PTSD is accompanied by a physical injury requiring medical treatment. If the first responder:

- Has PTSD that resulted from the course and scope of employment; and
- Is examined and diagnosed with PTSD by an authorized treating psychiatrist of the employer or carrier due to the first responder experiencing one of the following qualifying events relating to minors or others:
  - Seeing for oneself a deceased minor;
  - Witnessing directly the death of a minor;
  - Witnessing directly the injury to a minor who subsequently died prior to, or upon arrival at a hospital emergency department,
  - Participating in the physical treatment of, or manually transporting an injured minor who subsequently died before or upon arrival at a hospital emergency department;
  - Seeing for oneself a decedent who died due to grievous bodily harm of a nature that shocks the conscience;

<sup>28</sup> Ch. 2018-124, Laws of Fla.

<sup>29</sup> "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

<sup>30</sup> "Firefighter" means an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the Division of State Fire Marshal within the Department of Financial Services pursuant to s. 633.408, F.S.

<sup>31</sup> "Emergency medical technician" means a person who is certified by the Department of Health to perform basic life support pursuant to pt. III of ch. 401, F.S. "Paramedic" means a person who is certified by the Department of Health to perform basic and advanced life support pursuant to pt. III of ch. 401, F.S.

<sup>32</sup> Section 112.1815, F.S.

- Witnessing directly a death, including suicide, due to grievous bodily harm; or homicide, including murder, mass killings, manslaughter, self-defense, misadventure, and negligence;
- Witnessing directly an injury that results in death, if the person suffered grievous bodily harm that shocks the conscience; or
- Participating in the physical treatment of an injury, including attempted suicide, or manually transporting an injured person who suffered grievous bodily harm, if the injured person subsequently died prior to or upon arrival at a hospital emergency department.

Further, the PTSD must be demonstrated by clear and convincing evidence. Medical and indemnity benefits for a first responder's PTSD are due regardless of whether the first responder incurred a physical injury, and the following provisions do not apply:

- Apportionment due to a preexisting PTSD;
- The one percent limitation on permanent psychiatric impairment benefits; or
- Any limitation on temporary benefits under s. 440.093, F.S.

The first responder must file the notice of injury with their employer or carrier within 90 days of the qualifying event, described above, or manifestation of the PTSD, whichever is later. However, the claim is barred if it is not filed within 52 weeks of the qualifying event.

Current law requires an employing agency of a first responder to provide educational training relating to mental health awareness, prevention, mitigation, and treatment.

### **The Department of Financial Services/Division of Risk Management**

The Division of Risk Management (Division) is responsible for the management of claims reported by or against state agencies and universities for coverage under the self-insurance fund, known as the State Risk Management Trust Fund. Coverages provided through the trust fund include workers' compensation, property, fleet automobile liability, general liability, federal civil rights and employment discrimination, and court awarded attorney fees.<sup>33</sup> The Division also provides loss prevention services and technical assistance to state agencies and universities for managing risk.<sup>34</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 112.1815, F.S., to provide that the term, "first responder," includes part-time law enforcement officers as defined in s. 943.10(6), F.S., and auxiliary law enforcement officers as defined in s. 943.10(8), F.S. This would extend medical and indemnity benefits for PTSD for such officers if they meet other current requirements of this section. Agencies employing such officers are required to provide educational training related to mental health awareness, prevention, mitigation, and treatment. The section provides a technical conforming change.

<sup>33</sup> Section 284.30, F.S.

<sup>34</sup> See MyFloridaCFO, Division of Risk Management available at [Administration \(myfloridacfo.com\)](https://www.myfloridacfo.com) (last visited Jan. 29, 2022).

**Section 2** creates s. 112.18155, F.S., to provide that PTSD is a compensable occupational disease for a correctional officer (CO) (part-time or full-time) if the PTSD resulted from the officer acting within the course and scope of his or her employment; and is examined and diagnosed with PTSD by an authorized treating psychiatrist of the employer or carrier and has PTSD due to experiencing one of the specified qualifying events. For a CO, the qualifying events are:

- Breaking up a fight between inmates or trying to stop a murder or suicide attempt committed by an inmate.
- Being seriously injured, bitten, or beaten by an inmate.
- Receiving a threat to himself or herself or to a loved one which is made by an inmate or a person known to an inmate.
- Being taken hostage by an inmate or trapped in a life-threatening situation because of an inmate's act.
- Making a life-threatening mistake related to an inmate or another correctional officer or part-time correctional officer.
- Not preventing, or not being able to prevent, a life-threatening situation involving an inmate or another correctional officer or part-time correctional officer from happening.
- Killing or seriously injuring an inmate or another correctional officer or part-time correctional officer.
- Directly witnessing an injury, including an injury caused by a suicide attempt, to an inmate or another correctional officer or part-time correctional officer who subsequently died before or upon arrival at a hospital emergency department or was injured by grievous bodily harm of a nature that shocks the conscience.
- Participating in the physical treatment of an injury, including an injury caused by a suicide attempt, to an inmate or another correctional officer or part-time correctional officer who subsequently died before or upon arrival at a hospital emergency department or was injured by grievous bodily harm of a nature that shocks the conscience.
- Manually transporting an inmate or another correctional officer or part-time correctional officer who was injured, including by a suicide attempt, by grievous bodily harm of a nature that shocks the conscience or who subsequently died before or upon arrival at a hospital emergency department.
- Directly witnessing a death, including a death by suicide, of an inmate or another correctional officer or part-time correctional officer, which involved grievous bodily harm of a nature that shocks the conscience.
- Directly witnessing a homicide committed by an inmate or another correctional officer or part-time correctional officer, regardless of whether the homicide was criminal or excusable, including murder, mass killing, manslaughter, self-defense, misadventure, and negligence.
- Seeing for oneself a decedent whose death involved grievous bodily harm of a nature that shocks the conscience.
- Cleaning up an inmate's cell or other areas of a correctional institution after an injury or a death, including an injury by a suicide attempt or a death by suicide.
- Encountering an inmate who was recently sexually assaulted.

The PTSD benefits do not require a physical injury to the CO to be compensable. The following provisions do not apply:

- Apportionment due to a preexisting PTSD;
- The one percent limitation on permanent psychiatric impairment benefits; or

- Any limitation on temporary benefits under s. 440.093, F.S.

The bill provides the time for notice of injury or death is the same as s. 440.151(6), F.S., and is measured from one of the qualifying events or the manifestation of the disorder, whichever is later. A claim must be noticed properly within 52 weeks after the qualifying event.

An employing agency of a correctional officer is required to provide educational training relating to mental health awareness, prevention, mitigation, and treatment.

The DFS must adopt rules specifying injuries qualifying as grievous bodily harm of a nature that shocks the conscience for the purposes of this section.

**Section 3** creates s. 112.18156, F.S., to provide that PTSD is a compensable occupational disease for a correctional probation officer (CPO) (part-time or full-time), if the officer has PTSD that resulted from the officer acting within the course and scope of his or her employment; and is examined and diagnosed with PTSD by an authorized treating psychiatrist of the employer or carrier and has PTSD due to experiencing one of specified qualifying events.

The bill provides the time for notice of injury or death is the same as s. 440.151(6), F.S., and is measured from one of the qualifying events or the manifestation of the disorder, whichever is later. A claim must be noticed properly within 52 weeks after the qualifying event. For a CPO, the qualifying events are:

- Being seriously injured or beaten by a probationer or by a person known to a probationer or involved in a probationer-related activity.
- Receiving a threat to himself or herself or to a loved one that is made by a probationer or a person known to a probationer or involved in a probationer-related activity.
- Being taken hostage by a probationer or a person known to a probationer or involved in a probationer-related activity.
- Being trapped in a life-threatening situation as the result of a probationer-related activity.
- Making a life-threatening mistake related to a probationer or another person when trying to stop a probationer-related activity.
- Not preventing, or not being able to prevent, a life-threatening situation involving a probationer from happening.
- Killing or seriously injuring a probationer or another person as a result of an intervention in a probationer-related activity.
- Directly witnessing an injury, including an injury caused by a suicide attempt, to a probationer, or an injury caused to another person in a probationer-related activity, and the probationer or person subsequently died before or upon arrival at a hospital emergency department or was injured by grievous bodily harm of a nature that shocks the conscience.
- Participating in the physical treatment of an injury, including by a suicide attempt, to a probationer, or an injury to another person in a probationer-related activity, and the probationer or person subsequently died before or upon arrival at a hospital emergency department or was injured by grievous bodily harm of a nature that shocks the conscience.
- Manually transporting a probationer who was injured, including by a suicide attempt, or another person who was injured in a probationer-related activity, and the injury was by



grievous bodily harm of a nature that shocks the conscience; or the probationer or other person subsequently died before or upon arrival at a hospital emergency department.

- Directly witnessing a death, including a death by suicide, of a probationer or a death of another person in a probationer-related activity, which involved grievous bodily harm of a nature that shocks the conscience.
- Directly witnessing a homicide committed by or against a probationer, regardless of whether the homicide was criminal or excusable, including murder, mass killing, manslaughter, self-defense, misadventure, and negligence.
- Being assigned excessively high caseloads or high special caseloads, such as caseloads of probationers who recidivate or commit violent crimes.

The PTSD benefits do not require a physical injury to the CPO to be compensable. The following provisions do not apply:

- Apportionment due to a preexisting PTSD;
- The one percent limitation on permanent psychiatric impairment benefits; or
- Any limitation on temporary benefits under s. 440.093, F.S.

The DFS must adopt rules specifying injuries qualifying as grievous bodily harm of a nature that shocks the conscience for the purposes of this section.

An employing agency of a correctional probation officer is required to provide educational training relating to mental health awareness, prevention, mitigation, and treatment.

**Sections 4, 5, and 6** amend ss. 111.09, 119.071, and 627.659, F.S., respectively, to provide conforming cross references.

**Section 7** provides the Legislature determines and declares that this act fulfills an important state interest.

**Section 8** provides the bill takes effect July 1, 2022.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(a) of the State Constitution provides, in relevant part, that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or take an action requiring the expenditure of funds unless the Legislature has determined that such law fulfills an important state interest and the law requiring such expenditure is approved by two-thirds of the membership in each house of the Legislature; [or] . . . the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments. . . .” The provisions of this bill appear to apply to all persons similarly situated (state agencies, state universities, state colleges, and local governments employing law enforcement officers, correctional officers, and correctional probation officers).

Section 7 of the bill contains a legislative declaration that the bill fulfills an important state interest.

The bill expands the definition of first responder to include part-time law enforcement officers and auxiliary law enforcement officers that would be eligible for worker's compensation PTSD benefits if certain conditions are met. The bill provides PTSD benefits for correctional officers and correctional probation officers if certain conditions are met. The bill sets out legislative findings declaring that the act fulfills an important state interest. If the Legislature does not authorize adequate funding, it appears a two-thirds vote of the membership of each house may be required for the provisions in the bill to be binding upon local governments.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The expansion of the definition of the term, "first responder," to include part-time law enforcement officers, and auxiliary law enforcement officers will allow those officers to be eligible for medical and indemnity benefits for PTSD without having an accompanying physical injury if they meet certain conditions. Further, part-time and full-time correctional officers and correctional probation officers would be eligible for indemnity and medical benefits for PTSD without having an accompanying physical injury if they meet certain conditions.

Privately managed prisons would be impacted with increased workers' compensation costs similar to that of the State Risk Management Trust Fund.<sup>35</sup>

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<sup>35</sup> Department of Financial Services, *2022 Legislative Analysis of SB 664* (Dec. 3, 2021) (on file with Senate Committee on Banking and Insurance).

**C. Government Sector Impact:****Department of Corrections<sup>36</sup>**

The Department of Corrections (DOC) employs about 14,500 correctional officers (COs) and correctional probation officers (CBOs) and has approximately 20,500 overall positions with potential eligibility for benefits under the provisions of this bill. Since only a portion of these officers are exposed to a qualifying event or circumstance each year, DOC has provided a more detailed analysis of potential impacts for each qualifying event or circumstance, proposed in SB 664, as outlined below:

- Section 112.18155 (2) (b)2.a., F.S. In a recent three-year average approximately 1,500 fights or batteries that occurred in its prisons, with approximately 2,000 officers being identified as responding to these incidents annually.
- Section 112.18155 (2) (b)2.b., F.S. 1,036 officers were identified as having been injured by inmates in FY 2020/2021. This bill would eliminate these cases involving physical injury from the apportionment provisions in s. 440.093 F.S., as it relates to mental injuries.
- Section 112.18155 (2) (b)2.c., F.S. Expands PTSD coverage to staff who have been threatened by an inmate. The DOC averaged 1,268 reported threats against staff from 2018 through 2020.
- Section 112.18155 (2) (b)2.d, F.S. One incident has been identified as an employee being taken hostage by an inmate in 2021. There were zero identified occurrences in the previous three calendar years.
- Section 112.18155 (2) (b)2.e., F.S., and f., F.S. The language is not clear as to if there is a requirement that a person die as a result of the mistake made by the officer or his/her inability to prevent the incident.
- Section 112.18155 (2) h -- m, F.S., and s. 112.18156 (2) g -- k, F.S. There are approximately 300 CO's or CPO's who are exposed each year to a death that could meet the parameters outlined in these provisions of the bill. The DOC does not track deaths with specificity as to those where the death would qualify as to one that "shocks the conscious."
- Section 112.18155 (2) (b)2.n, F.S. The number of staff involved in the cleaning of the areas where a death or injury occurred is not available.
- Section 112.18155 (2) (b)2.o, F.S. In order to provide sufficient response to this portion, the DOC would need further clarification for the terms "encounter" and "recently."
- Section 112.18156 (2) (b)2.a -- l., F.S. Approximately 100 CPOs are exposed to qualifying events in a year.
- Section 112.18156 (2) (b)2.m, F.S.: It is unclear as to what constitutes a high caseload or excessively high caseload. Note, that ch. 948, F.S., provides parameters as to maximum case load for certain offender types.

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<sup>36</sup> Department of Corrections, *2022 Agency Legislative Analysis of SB 664* (Dec. 2, 2021) (on file with Senate Banking and Insurance Committee).

The DOC states that the training and curriculum changes might be developed with existing resources and staff. However, there would be increased cost to the state associated with the expansion of PTSD coverage and eligibility.

**Department of Financial Services/Division of Risk Management<sup>37</sup>**

If the bill is implemented, the Risk Management Trust Fund (RMTF) will likely experience a significant increase in workers' compensation claims related to the inclusion of part-time and auxiliary law enforcement officers, correctional officers and correctional probation officers eligible for workers' compensation benefits under ss. 112.18155 and 112.18156, F.S. The bill would add approximately 20,938 additional state employee FTEs who would be eligible for workers' compensation benefits provided for in SB 664, as follows:

- Correctional officers: approximately 18,500 FTEs
- Correctional probation officers: approximately 2,200 FTEs
- Part-time and auxiliary law enforcement officers: 238

Non-operating Loss Payment Category – Based on an assumption of 500- 1,000 new PTSD claims per year, we estimated that the RMTF could potentially pay as much as \$20 - \$40 million over the first three years of the bill becoming law, and this amount would be expected to grow exponentially over time. Five additional Workers' Compensation Specialist may be needed at a recurring cost of \$70,991 and non-recurring of \$4,591 per adjuster: \$354,955 Salaries and Benefits (recurring) \$1,525 Transfer to DMS (recurring) \$31,995 Expenses (recurring) \$22,955 Expenses (non-recurring)

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 112.1815, 111.09, 119.071, and 627.659 of the Florida Statutes.

This bill creates sections 112.18155 and 112.18156 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

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<sup>37</sup> *Supra* note 7.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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