

SB 411-FN - AS INTRODUCED

2022 SESSION

22-3111

10/05

SENATE BILL ***411-FN***

AN ACT relative to critical incident stress management for emergency services providers, and establishing a violent act injury disability retirement for public safety employees.

SPONSORS: Sen. Cavanaugh, Dist 16

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill requires a critical incident stress management debriefing following certain emergency services incidents. The bill also establishes a retirement system benefit for group II members retired due to a violent act injury.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to critical incident stress management for emergency services providers, and establishing a violent act injury disability retirement for public safety employees.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; Emergency Medical and Trauma Services; Critical Incident Stress
2 Management. Amend RSA 153-A:17-a by inserting after paragraph III the following new paragraph:

3 IV.(a) Any firefighter, any call, volunteer, auxiliary, intermittent or reserve firefighter, any
4 call, volunteer, auxiliary, intermittent or reserve emergency medical services provider who is a
5 member of a police or fire department, any police officer, any auxiliary, intermittent, special, part-
6 time or reserve police officer, and any municipal or public emergency medical technician shall
7 participate in critical incident stress management debriefing following any incident involving
8 exposure to actual or threatened death, serious injury, or sexual violence as defined in the most
9 recent version of the Diagnostic and Statistical Manual of Mental Disorders, or any other incident
10 reasonably warranting a critical incident stress management debriefing, as determined by an
11 emergency services provider certified by the New Hampshire Peer Support Network or International
12 Critical Incident Stress Foundation, Inc.

13 (b) At the discretion of the emergency services provider, or at the request of any
14 member, the member will seek a behavioral health consultation on his or her own time. Anything
15 discussed during the behavioral health consultation shall be kept confidential in the following
16 manner:

17 (1) All conversations, records, recordings, or other documents resulting from the
18 behavioral health consultation shall be subject to physician-patient privilege and shall not be
19 provided to the employer except at the request of the member.

20 (2) The employer may contact the behavioral health professional to confirm the date
21 and attendance of the member and credentials of the professional.

22 2 New Paragraph; Retirement System; Disability Retirement; Group II Violent Act Injury
23 Disability. Amend RSA 100-A:6 by inserting after paragraph II the following new paragraph:

24 II-a. Group II Violent Act Injury Disability. Upon the application of a group II member in
25 service or of his or her employer, any such member who has, during the performance of their duties,
26 sustained a serious and permanent bodily injury as a direct result of a violent attack upon such
27 member by means of a dangerous weapon to include but not limited to a firearm, knife, automobile,
28 explosive device, personal weapon, or other dangerous weapon, which for the purposes of this
29 paragraph shall be defined as an item which is designed for the purpose of causing serious injury or

1 death, shall be retired by the board of trustees on a violent act injury disability retirement
2 allowance, according to the following procedures:

3 (a) Any member in service classified in group II, who is unable to perform the essential
4 duties of the member's job and that such inability is likely to be permanent before attaining the
5 normal retirement age for the member's group by reason of a personal injury or violent act injury
6 sustained or a hazard undergone as a result of, and while in the performance of the member's duties
7 at some definite place and at some definite time on or after the date of becoming a member or prior
8 to such date while any provision of this chapter was applicable to the member, without serious and
9 willful misconduct on the member's part, upon the member's written application on a prescribed
10 form filed with the board and the member's respective employer or upon such an application by the
11 head of the member's department after a hearing, if requested, shall be deemed retired for an
12 accidental disability as of a date which shall be specified in such application and which shall be not
13 less than 15 days nor more than 4 months after the filing of such application, but in no event later
14 than the normal retirement age for group II retirement. No such retirement shall be allowed unless
15 such injury or violent act injury was sustained or such hazard was undergone within 2 years prior to
16 the filing of such application or, if occurring earlier, unless written notice thereof was filed with the
17 board by such member or on the member's behalf within 90 days after its occurrence. No retirement
18 shall be allowed unless the board, after a review of the evidence it deems appropriate, and after
19 review and examination by the regional medical panel and certification of such incapacity by a
20 majority of the physicians on such medical panel, shall find that such member is physically unable to
21 perform the essential duties of the member's job because of a violent act injury, that such inability is
22 likely to be permanent, and that the member should be so retired. Any member who was injured
23 while a member of a retirement system established in any governmental unit other than that by
24 which the member is presently employed, and who has complied with the provisions of this
25 paragraph as to notice, shall file such application with the retirement board of the unit where he or
26 she is presently employed. Such board shall secure a statement of facts and records, which it shall
27 be the duty of the retirement board of the first governmental unit to furnish, and on which it shall be
28 entitled to make recommendations.

29 (b) Prior to the determination of a retirement under this paragraph, a member shall
30 submit to the board a written statement authorizing release of information from the federal Internal
31 Revenue Service and the department of revenue administration relative to the annual gross earned
32 income of the member in pursuant to an agreement between the federal internal revenue service, the
33 department of revenue, and the public employee retirement administration commission.

34 (c) Upon a violent act injury disability retirement, the group II member shall receive a
35 disability retirement allowance which shall be equal to 100 percent of their regular compensation,
36 including all applicable benefits and stipends, that the member was earning on the date of such
37 violent act injury. The annual amount of disability allowance payable to such member shall be equal

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1 to the regular rate of compensation which the member would have been paid had the member
2 continued in service at the grade held by the member at the time of their retirement until their
3 death or reaching normal retirement age, whichever comes first; provided that, if the member
4 reaches the normal retirement age, the member shall be entitled thereafter to 80 percent of the
5 average annual rate of compensation paid to the member in the previous 12 months, including any
6 cost of living increases. Upon retirement, the member shall receive a lump sum payment from the
7 applicable retirement board equal to the member's total accumulated contributions. In the event
8 that the member shall predecease their spouse and the member's death is the result of the same
9 violent act injury, the member's spouse shall be entitled to 75 percent of the member's annual
10 allowance, paid monthly, as long as such spouse shall live; provided that, when the member would
11 have reached the mandatory retirement age, the member's spouse shall continue to be entitled to 75
12 percent of the member's annual allowance, including any cost of living increases, that the member
13 would have received upon reaching the normal retirement age; provided, however, that if a
14 beneficiary is eligible for benefits under this paragraph, the beneficiary shall elect to receive either a
15 benefit pursuant to this paragraph but shall not be eligible for both benefits. In the event that the
16 member and the member's spouse predecease their children, the member's surviving unmarried
17 children, if any, who are under age 18 or, if over that age and under age 22, are full-time students at
18 an accredited educational institution, or who are over age 18 and physically or mentally
19 incapacitated from earning income on the date of such member's retirement, shall be entitled to
20 receive a pension of equal proportion, paid monthly, which shall total 75 percent of the amount of the
21 allowance payable to the member at the time of their death. When a child no longer meets the
22 qualifications for receipt of an allowance allocation under this paragraph, said child's allowance
23 allocation shall cease and any remaining qualified children shall continue to receive the same
24 amount each received before any child's allocation ceased.

25 (d) Nothing in this paragraph or any other provision of New Hampshire statutes shall
26 limit the member's aforementioned retirement benefit or restrict the member from seeking
27 accommodating employment by any entity or agency which is not classified under group II of the
28 retirement system.

29 (e) The provisions of this section allowing for a violent act injury disability retirement
30 may be granted by the board for any qualifying retirement application for a violent act injury
31 disability occurring on or after January 1, 2012.

32 3 Maximum Benefit Limitation; Reference Added. Amend RSA 100-A:6-a to read as follows:

33 100-A:6-a Maximum Retirement Benefit. Notwithstanding any other provision of this chapter
34 to the contrary, for members who commenced service before July 1, 2009, or have attained vested
35 status prior to January 1, 2012, a member's initial calculation of the retirement benefit granted
36 under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed 100 percent of the member's
37 highest year of earnable compensation. For members who commenced service on or after July 1,

2009 and have not attained vested status prior to January 1, 2012, a member's maximum retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed the lesser of 85 percent of the member's average final compensation or \$120,000. Nothing in this section shall affect the ability of a member to receive disability benefits pursuant to RSA 100-A:6, II(b) and (c) **or RSA 100-A:6, II-a**. This provision shall not limit the application of supplemental allowances.

4 Medical Insurance Benefits; Violently Injured Police or Fire. Amend RSA 21-I:3, VII to read as follows:

VII. For the purposes of this section, "retired employee" also means each group II state employee who:

(a) Retires if the employee's state service began prior to July 1, 2010 or who retires with at least 20 years of creditable service for the state if the employee's state service began on or after July 1, 2010; or

(b) Dies or retires and is eligible for accidental death or accidental disability retirement benefits, regardless of the state employee's age or number of years of creditable service; or

(c) Retires and is eligible for violent act injury disability retirement benefits under RSA 100-A:6, II-a, regardless of the state employee's age or number of years of creditable service, and provided in such instance the medical benefits shall be indemnified for all hospital, medical, and other healthcare expenses, not otherwise covered by health insurance, related to treatment of injuries that have been or may be incurred after the date of the member's retirement as a result of the injuries sustained by the member relating to the violent act injury while in the performance of the member's duties; or

~~[(e)]~~ (d) Retires and is eligible for ordinary disability retirement benefits, regardless of the state employee's age; or

~~[(d)]~~ (e) Dies and is eligible for ordinary death retirement benefits, if the state employee was eligible for service retirement at the time of his or her death, if the state employee had at least 20 years of creditable service for the state if the employee's state service began on or after July 1, 2010.

5 Effective Date. This act shall take effect July 1, 2022.

SB 411-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to critical incident stress management for emergency services providers, and establishing a violent act injury disability retirement for public safety employees.

FISCAL IMPACT: ☒ State ☒ County ☒ Local ☐ None

| STATE: | Estimated Increase / (Decrease) | | | |
|------------------------|---|------------------------------------|---|--------------------------------|
| | FY 2022 | FY 2023 | FY 2024 | FY 2025 |
| Appropriation | \$0 | \$0 | \$0 | \$0 |
| Revenue | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | Indeterminable | Indeterminable | Indeterminable |
| Funding Source: | <input checked="" type="checkbox"/> General | <input type="checkbox"/> Education | <input checked="" type="checkbox"/> Highway | <input type="checkbox"/> Other |

COUNTY:

| | | | | |
|---------------------|-----|----------------|----------------|----------------|
| Revenue | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | Indeterminable | Indeterminable | Indeterminable |

LOCAL:

| | | | | |
|---------------------|-----|----------------|----------------|----------------|
| Revenue | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | Indeterminable | Indeterminable | Indeterminable |

METHODOLOGY:

This bill adds a new requirement for First Responder personnel to attend a Critical Incident Stress Management debriefing following certain emergency services incidents. This bill also contains a violent act injury disability retirement for public safety personnel set forth by the New Hampshire Retirement System (Group II). The "disability" retirement benefit as written provides a greater level of compensation to the recipient while providing for surviving family members.

The New Hampshire Retirement System's actuary stated although they have no data concerning the frequency of violent disabilities among Group II members, they made an assumption that 50% of disabilities occurring in the line of duty were the result of violence. Using the June 30, 2019 actuarial valuation assumptions of an annual rate of return of 6.75 percent, wage inflation at 2.75 percent a year, and using the entry-age actuarial cost valuation method, the System's actuary determined the following increases:

State

| Employer Pension Rates as a Percent of Payroll | | | | |
|--|-------------------------|---------|--------------------|--------------------------|
| | Current 2022-2023 Rates | | Impact of Proposal | Proposed 2022-2023 Rates |
| Employees | 13.75% | | 0.00% | 13.75% |
| Police | 30.67% | | 1.02% | 31.69% |
| Fire | 29.78% | | 0.82% | 30.60% |
| | | | | |
| Expected Employer Dollar Increase (Decrease) Due to Proposal | | | | |
| | FY 2022 | FY 2023 | FY 2024 | FY 2025 |
| Employees | - | - | \$0 | \$0 |
| Police | - | - | \$1,000,000 | \$1,020,000 |
| Fire | - | - | \$40,000 | \$40,000 |
| TOTAL | - | - | \$1,040,000 | \$1,060,000 |

Political Subdivisions

| Employer Pension Rates as a Percent of Payroll | | | | |
|--|-------------------------|--------------------|--------------------------|-------------|
| | Current 2022-2023 Rates | Impact of Proposal | Proposed 2022-2023 Rates | |
| Employees | 13.75% | 0.00% | 13.75% | |
| Teachers | 19.48% | 0.00% | 19.48% | |
| Police | 30.67% | 1.02% | 31.69% | |
| Fire | 29.78% | 0.82% | 30.60% | |
| Expected Employer Dollar Increase (Decrease) Due to Proposal | | | | |
| | FY 2022 | FY 2023 | FY 2024 | FY 2025 |
| Employees | - | - | \$0 | \$0 |
| Teachers | - | - | \$0 | \$0 |
| Police | - | - | \$2,660,000 | \$2,730,000 |
| Fire | - | - | \$1,190,000 | \$1,230,000 |
| TOTAL | - | - | \$3,850,000 | \$3,960,000 |

The NHRS actuarial projects an increase in the actuarial accrued liability of \$23.9 million based on the provisions in the bill. They also note that the analysis only contemplates areas specific to the establishment of the new program and that there are a significant number of defects that may make it challenging to implement the proposals in the bill. Lastly, the NHRS actuarial states there will be additional impact to FY 2025.

The Department of Safety states this bill will have an indeterminable impact on State expenditures. The Department states at this time they do not know the details and frequency of the required debriefing and are unable to determine the fiscal impact. They also note they are unable to determine if an occurrence meeting the requirements of the new "disability" retirement will occur.

The Department of Administrative Services states there is an indeterminable fiscal impact to State expenditures. They are unable to determine the exact fiscal impact as they have no way of knowing how many claims will be filed. The Department also states they are unclear as to whether this bill intends to exclude violent act injury medical claims covered, today, under workers compensation. The Department states if these acts are excluded from workers

compensation then there will be a sizeable fiscal impact as the bill deems everything related to the violent act injury is covered at 100% by the State even services not covered by health insurance. The Department indicates the broad definition of "not covered by health insurance" could include more than just copays and deductibles. It could potentially also include experimental treatments or medications not FDA approved.

The New Hampshire Municipal Association states there is an indeterminable impact to local expenditures. They state they are unsure whether the municipal employer would be required to pay for the behavioral health consultations.

The New Hampshire Association of Counties (NHAC) states they don't anticipate this bill to have any additional impacts on their operating costs. However, to the extent there are medical expense not covered by insurance under RSA 100-A:6, the NHAC assumes the counties Primex workers compensation would cover the expenses.

AGENCIES CONTACTED:

New Hampshire Retirement System, Department of Safety, Department of Administrative Services, New Hampshire Municipal Association and New Hampshire Association of Counties