

WHITT & DEL BUENO

E-NEWSLETTER

July 16, 2020

www.whittanddelbueno.com

LAW CHANGES AFFECTING PUBLIC SAFETY EMPLOYEES

Effective July 1, 2020

NEW PTSD LAW:

Virginia Code § 65.2-107 created a new PTSD law applicable to police officers and firefighters if they were exposed to a qualifying event (defined in the statute) on or after July 1, 2020 and if they meet the following additional requirements:

1. Mental health professional diagnosed PTSD as a result of the qualifying event;
2. PTSD resulted from the police officer or firefighter acting in the line of duty, and the firefighter complied with OSHA standards;
3. The qualifying event was a substantial factor in causing PTSD;
4. The qualifying event was the primary cause of the PTSD;
5. The PTSD did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-enforcement officer or firefighter.

The legislature placed unique limits on the PTSD benefits. Police officers and firefighters are only entitled to indemnity benefits for a maximum of 52 weeks from the date of diagnosis. No medical benefits, TTD, or TPD shall be awarded beyond four years from the date of the qualifying event. Additionally, the weekly TTD and TPD benefits, when combined with "other benefits," including SSDI, retirement benefits, and long-term and short-term disability, shall not exceed the claimant's AWW.

It appears single incidents or repeated exposure over time could be "qualifying events" defined by this new law. While the new law may make it easier for police officers and firefighters to prove compensable PTSD, the law limits the benefits available for those claimants. We will continue to monitor the case law to determine how the Commission interprets the language in this new statute.

OTHER LAW CHANGES:

HYPERTENSION & HEART DISEASE PRESUMPTION	CANCER PRESUMPTION	INFECTIOUS DISEASE PRESUMPTION
65.2-402(B) now requires a qualifying public safety officer to serve at least five years in the position before being entitled to the presumption.	65.2-402(C) now includes colon, brain, & testicular cancer if diagnosed on or after July 1, 2020. Additionally, the service requirement has been changed from twelve continuous years to five years.	65.2-402.1 now applies to correctional officers and those in the DMV enforcement division, so long as diagnosis occurred on or after July 1, 2020.

At this time, all of our attorneys are working in our office. Please feel free to email us or call our office. We are here to help during this challenging time, and we hope you and your families stay safe and healthy!



WHITT & DEL BUENO

ATTORNEYS AT LAW

4200 Innslake Drive, Suite 201, Glen Allen, Virginia 23060

(804) 864-9660