

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

HOUSE BILL 1302

5 By: Representative Wing  
6

## For An Act To Be Entitled

8 AN ACT TO MANDATE TRAUMATIC EVENT LICENSED COUNSELING  
9 FOR PUBLIC SAFETY EMPLOYEES; TO REQUIRE A STUDY OF  
10 AVAILABILITY FOR PEER SUPPORT ACCESS FOR VOLUNTEER  
11 FIREFIGHTERS; AND FOR OTHER PURPOSES.  
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## Subtitle

14 TO MANDATE TRAUMATIC EVENT LICENSED  
15 COUNSELING FOR PUBLIC SAFETY EMPLOYEES;  
16 AND TO REQUIRE A STUDY OF AVAILABILITY  
17 FOR PEER SUPPORT ACCESS FOR VOLUNTEER  
18 FIREFIGHTERS.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code Title 21, Chapter 5, Subchapter 6, is amended  
25 to add an additional section to read as follows:

26 21-5-611. Traumatic event licensed counseling for public safety  
27 employees – Exceptions – Definitions.

28 (a) As used in this section:

29 (1) "Firefighter" means:

30 (A) A member of a fire department or firefighting unit of  
31 a city of the first class, city of the second class, or an incorporated town  
32 or an unincorporated rural area of this state who actively engages in the  
33 fighting of fires on a regular basis; or

34 (B) An instructor of the Arkansas Fire Training Academy or  
35 a member of the firefighting organization of the Arkansas National Guard  
36 Robinson Maneuver Training Center or of the Arkansas National Guard Fort



1 Chaffee Joint Maneuver Training Center;

2 (2) "Licensed counseling" means counseling provided by a  
 3 licensed mental health professional;

4 (3) "Licensed mental health professional" means a licensed  
 5 individual who:

6 (A) Specializes in trauma and crisis;

7 (B) Uses evidence-based treatment options; and

8 (C) Is one (1) of the following:

9 (i) A psychiatrist;

10 (ii) A psychologist;

11 (iii) A mental health professional who holds either  
 12 a master's or doctoral degree related to the mental health profession;

13 (iv) A mental health nurse practitioner or mental  
 14 health clinical nurse who is:

15 (a) A registered nurse licensed and certified  
 16 by the Arkansas State Board of Nursing as an advanced practice nurse; and

17 (b) Working within the scope of practice as  
 18 authorized by law; or

19 (v) A psychiatric physician assistant who is working  
 20 under the supervision of a licensed physician;

21 (4) "Police officer" means:

22 (A) A law enforcement officer engaged in official duty who  
 23 is a member of:

24 (i) A regular or auxiliary police force on a full-  
 25 time or part-time basis;

26 (ii) The Division of Arkansas State Police; or

27 (iii) The law enforcement organization of the:

28 (a) Arkansas National Guard Robinson Maneuver  
 29 Training Center; or

30 (b) Arkansas National Guard Fort Chaffee Joint  
 31 Maneuver Training Center;

32 (B) A sheriff or deputy sheriff of a county of this state  
 33 who is engaged in official duty; or

34 (C) A constable or night marshal of a town of this state  
 35 who is engaged in official duty;

36 (5) "Public safety employee" means a public employee who is:

- 1                   (A) A member of a state-supported retirement system;
- 2                   (B) A probation officer, surveillance officer, or juvenile
- 3 detention officer employed by this state or a political subdivision of this
- 4 state;
- 5                   (C) A firefighter; or
- 6                   (D) A police officer; and
- 7                   (6) "Traumatic event" means an individual's direct exposure in
- 8 the line of duty to an incident involving:
- 9                   (A) The extraordinary traumatic bodily injury or death of
- 10 a person;
- 11                   (B) The serious injury, death, abuse, or exploitation of a
- 12 minor;
- 13                   (C) An immediate threat to the life of the individual or
- 14 another person; or
- 15                   (D) A mass casualties event.
- 16                   (b)(1) Except as provided in subsection (i) of this section, a public
- 17 employer that employs a public safety employee shall provide coverage for
- 18 licensed counseling for a public safety employee who experiences a traumatic
- 19 event while in the course of duty.
- 20                   (2)(A) The coverage under subdivision (b)(1) shall allow for up
- 21 to twelve (12) licensed counseling visits.
- 22                   (B) The public employer shall pay for the licensed
- 23 counseling visits.
- 24                   (C) The licensed counseling visits may be provided through
- 25 telehealth.
- 26                   (c) Payment by a public employer for licensed counseling under this
- 27 section does not create a presumption that a claim is compensable under §§
- 28 11-9-113 or 11-9-114.
- 29                   (d)(1) A public employer that provides coverage under subdivision
- 30 (b)(1) of this section shall ensure that the following data is compiled as
- 31 part of the coverage:
- 32                   (A) The number of public safety employees who have
- 33 participated in licensed counseling;
- 34                   (B) The average number of visits of licensed counseling
- 35 per public safety employee;
- 36                   (C) The average number of months that a public safety

1 employee participated in licensed counseling;

2 (D) The average number of days that a public safety  
3 employee who participated in licensed counseling missed work;

4 (E)(i) The total number of public safety employees who  
5 participated in licensed counseling and who subsequently filed a workers'  
6 compensation claim.

7 (ii) The data compiled under subdivision  
8 (d)(1)(E)(i) of this section shall include the number of claims that were  
9 approved and the number of claims that were denied;

10 (F) For each public employer:

11 (i) The total amount of work missed by public safety  
12 employees who participated in licensed counseling; and

13 (ii) How missed work was accounted for by the public  
14 employer or through employee benefits;

15 (G) For the total number of public safety employees who  
16 have participated in licensed counseling, the percentage of public safety  
17 employees who received additional visits under subsection (e) of this  
18 section; and

19 (H) For the total number of public safety employees who  
20 have participated in licensed counseling, the percentage of public safety  
21 employees who were deemed not fit for duty by a licensed mental health  
22 professional under subsection (g) of this section.

23 (2) In implementing subdivision (d)(1) of this section, a public  
24 employer shall not compile and report data that is protected under the Health  
25 Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

26 (e) If a licensed mental health professional determines that the  
27 public safety employee needs additional visits of licensed counseling beyond  
28 those to which the public safety employee is entitled under subdivision  
29 (b)(1) of this section and that the additional visits are likely to improve  
30 the public safety employee's condition, the public employer shall pay for up  
31 to an additional twenty-four (24) visits if the visits occur within one (1)  
32 year after the first visit under this section.

33 (f) A public employer shall not require a public safety employee who  
34 is receiving treatment under this section to use the public safety employee's  
35 accrued paid vacation leave, personal leave, or sick leave if the public  
36 safety employee leaves work to attend licensed counseling under this section.

1       (g) If a licensed mental health professional determines that the  
2 public safety employee is not fit for duty while the public safety employee  
3 is receiving treatment under this section, then the public employer shall  
4 ensure that the public safety employee has no loss of pay and benefits for up  
5 to thirty (30) calendar days per incident after the date the licensed mental  
6 health professional determines that the public safety employee is not fit for  
7 duty if all of the following apply:

8               (1) The public safety employee is unable to work light duty or  
9 the public employer does not offer a light duty option;

10              (2) The public safety employee has exhausted the public safety  
11 employee's sick leave, vacation leave, or other leave that is provided as  
12 part of the public safety employee's benefits package;

13              (3) If a public employer offers short-term disability benefits,  
14 then the public employer offered and the public safety employee elected  
15 short-term disability benefits, but the public safety employee is not  
16 eligible to receive short-term disability benefits; and

17              (4)(A) A public employer does not have a supplemental program  
18 that provides pay and benefits after the occurrence of an injury.

19                      (B) As used in subdivision (g)(4)(A) of this section, a  
20 "supplemental program" means a program that provides pay and benefits after  
21 the occurrence of an injury but does not include a supplemental benefits plan  
22 established under § 24-6-401 et seq.

23              (h)(1)(A) A public employer shall allow a public safety employee to  
24 select the public safety employee's own licensed mental health professional.

25                      (B) However, if a licensed mental health professional  
26 declines to provide licensed counseling under this section, then the public  
27 employer is not required to secure the services of that licensed mental  
28 health professional under subdivision (h)(1)(A) of this section.

29              (2) The public employer shall pay the licensed mental health  
30 professional under the fee schedule that is fixed under this subchapter.

31              (i) This section does not apply to a public employer that provides  
32 licensed counseling to a public safety employee if the licensed counseling:

33                      (1) Is paid for by the public employer;

34                      (2)(A) Provides licensed counseling for any issue.

35                              (B) For licensed counseling related to a trauma event,  
36 this subdivision (i)(2) applies if the licensed counseling is provided at the

1 request of the public safety employee and is in person;

2 (3) Before January 1, 2024, allows for at least six (6) visits  
 3 per year; and

4 (4) On or after January 1, 2024, allows for at least twelve (12)  
 5 visits per year.

6  
 7 SECTION 2. DO NOT CODIFY. Study of availability of peer support  
 8 access and licensed counseling for volunteer firefighters – Legislative  
 9 findings – Reporting requirements – Definitions.

10 (a) As used in this section:

11 (1) "Licensed counseling" means counseling provided by a  
 12 licensed mental health professional;

13 (2) "Licensed mental health professional" means a licensed  
 14 individual who:

15 (A) Specializes in trauma and crisis;

16 (B) Uses evidence-based treatment options; and

17 (C) Is one (1) of the following:

18 (i) A psychiatrist;

19 (ii) A psychologist;

20 (iii) A mental health professional who holds either  
 21 a master's or doctoral degree related to the mental health profession;

22 (iv) A mental health nurse practitioner or mental  
 23 health clinical nurse who is:

24 (a) A registered nurse licensed and certified  
 25 by the Arkansas State Board of Nursing as an advanced practice nurse; and

26 (b) Working within the scope of practice as  
 27 authorized by law; or

28 (v) A psychiatric physician assistant who is working  
 29 under the supervision of a licensed physician;

30 (3) "Traumatic event" means an individual's direct exposure in  
 31 the line of duty to an incident involving:

32 (A) The extraordinary traumatic bodily injury or death of  
 33 a person;

34 (B) The serious injury, death, abuse, or exploitation of a  
 35 minor;

36 (C) An immediate threat to the life of the individual or

1 another person; or

2 (D) A mass casualty event; and

3 (4) "Volunteer firefighter" means a member of a fire department  
 4 or firefighting unit who:

5 (A) Actively engages in fire suppression, rescue, pump  
 6 operation, or other firefighting activity; and

7 (B) Receives less than five thousand dollars (\$5,000) in  
 8 total compensation during the taxable year from the volunteer fire department  
 9 or firefighting unit that the volunteer firefighter services.

10 (b) The General Assembly finds that:

11 (1) Volunteer firefighters provide a valuable and important  
 12 service to the citizens and communities in this state by participating in a  
 13 firefighting unit that actively engages in fire suppression, rescue, pump  
 14 operation, or other firefighting activities;

15 (2) Volunteer firefighters may experience traumatic events that  
 16 experience and training has not adequately prepared the volunteer  
 17 firefighters to handle and address in a healthy way;

18 (3) A volunteer firefighter who experiences a traumatic event  
 19 should have access to licensed counseling and other available resources;

20 (4) Coverage for licensed counseling should be made available to  
 21 a volunteer firefighter who experiences a traumatic event; and

22 (5) In order to demonstrate the effectiveness of licensed  
 23 counseling for volunteer firefighters and benefits or difficulties in the  
 24 providing coverage for licensed counseling to volunteer firefighters,  
 25 additional data is needed.

26 (c) The State Fire Prevention Commission with the cooperation of local  
 27 governments interested in participating shall study the availability of peer  
 28 support access and licensed counseling for volunteer firefighters to evaluate  
 29 the viability and sustainability of providing coverage for licensed  
 30 counseling and peer support access for volunteer firefighters.

31 (d) The study under subsection (c) of this section shall include:

32 (1) Evaluating possible ways to fund coverage for licensed  
 33 counseling for a traumatic event for volunteer firefighters; and

34 (2) Developing recommendations for potential legislation that is  
 35 necessary to implement coverage for licensed counseling for volunteer  
 36 firefighters.

1           (e) A report summarizing the results of the study under this section  
2 shall be filed with the Legislative Council no later than July 1, 2024.

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