



CITY OF MILWAUKEE

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City of Milwaukee Testimony regarding SB 11/AB 17

February 8, 2021

Senate Committee on Labor and Regulatory Reform

Thank you for the opportunity to testify on SB 11. The City of Milwaukee shares your interest in ensuring benefits and protections are available to public safety personnel as they continue to be exposed to an increasing number of traumatic events while performing their difficult work.

Over the last several years, the City of Milwaukee has made a firm commitment to the health and well-being of our employees, including our protective service personnel. Every program is designed to help employees manage work and personal stressors for a better work/life balance. We have invested in an on-site workplace clinic, dedicated EAP resources, Peer Support Teams, Care 24 Programming through United Healthcare, and have funded an on-site health advocate to help employees navigate through difficult healthcare decisions.

The City recognizes the need and the importance of a system that allows public safety personnel to file worker compensation claims when they are exposed to traumatic critical incidents. We also support the need to facilitate access to help to ensure immediate and appropriate medical care and recovery.

In order to ensure that only the individuals truly impacted by these unfortunate events receive the help and benefits they are entitled to under applicable law, we believe that one additional provision should be added. **The City of Milwaukee is respectfully requesting the addition of an “employment investigation or notice of investigation into allegations of misconduct” as an employer exemption that can’t trigger a claim of PTSD.**

This addition is necessary because we don’t believe that the Diagnostic and Statistical Manual definition of PTSD is by itself a bar to filing a claim when there is an investigation into allegations of misconduct. Furthermore this definition does not preclude a psychiatrist from assigning a PTSD diagnosis to a member who is a patient. The proposed language is consequently needed to deal with actual cases where members have used an investigation or notice of investigation as a triggering event for filing a PTSD claim as described below:

1. A Police Detective was witnessed entering a secure work area of the Chiefs Office of Management, Analysis & Planning which is responsible for the research, data, and policy matters. The Detective and a coworker, who were not assigned to work within that location, accessed this office after hours without authorization. The Detective was investigated for being in a secured locked area after hours for an office she was no longer assigned to. The investigation did not result in disciplinary action but the Detective filed a workers’ compensation claim for stress and a medical provider diagnosed her with PTSD as a result to the internal investigation.

2. A number of Police Officers were being investigated due to allegations of illegal strip searches. Many of the allegations began with a stop, followed by a pat down and illegal cavity searches. Officers were charged with violating strip search law, misconduct in public office and second degree sexual assault. During the investigation, stress claims were filed under workers' compensation.

3. Milwaukee Fire Department Engine house 32 in which extensive vandalism, disorder and damage to the firehouse by MFD staff personnel which were permanently transferred from the engine house to other work at other engine locations. The damage included defecation of property, apparent urine and feces in inappropriate areas, broken equipment, and a dead rat hung on someone's locker. Two stress claims were filed by members being investigated while the investigation was going on.

4. A number of Police Officers and a Sergeant went sledding in a cemetery when they were supposed to be on duty. One officer broke some ribs. According to the criminal complaint the Sgt. not wanting to get anyone in trouble, advised the officers to go to another location and invented a crime in order to justify the accident of the broken ribs. While being placed under investigation, employees filed both false injury claims and stress claims. The charges were substantiated and both w/c fraud charges and criminal charges were filed. Employees were disciplined or discharged as a result of this matter.

If the extraordinary stress standard is removed and personnel investigations as an exempted employer action is not included, then it will be easier for members to file workers compensation claims when misconduct may have occurred as the examples above illustrate.

Employment investigations into allegations of misconduct are a key component of the due process rights members have per applicable state statutes and provisions of collective bargaining agreements. The proposed language is designed to ensure that notice of the investigation or the investigation itself does not trigger a claim of PTSD as was the case in the examples provided.

These investigations are separate and distinct from investigations conducted by law enforcement agencies after a traumatic critical incident such as an officer involved shooting or after an incident involving excessive use of force. The proposed language does not interfere with an employee's ability to file a worker's compensation claim after a traumatic incident. An investigation after a traumatic incident has absolutely no effect on an employee's ability to file a worker's compensation claim based on the underlying event. It is up to the employee how they want to shape their claim. If the traumatic incident is the basis of the claim, then the employee can simply claim as much.

The City of Milwaukee would greatly appreciate an amendment that would add "a personnel investigation or notice of a personnel investigation into allegations of misconduct" as an exempted employer action. Thank you for the consideration and for the opportunity to testify on SB 11/AB 17.

For questions or additional information please contact:

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