

Ohio Governor Signs H.B. 308 to Create Fund for PTSD for First Responders

By Jonathan Miller

Effective January 9, 2021, Ohio Governor Mike DeWine signed [House Bill 308](#) to create a fund for post-traumatic stress disorder for first responders. This is defined as “paying compensation for lost wages to a public safety officer who is disabled by post-traumatic stress disorder (PTSD) without an accompanying physical injury received in the course of, and arising out of, employment...” This fund is to cover medicine, hospital bills, therapy, and compensation for PTSD in the absence of an accompanying injury. It is worth noting that under the current legislation, Section 126.65(D), “there shall be no payments made from [the fund].” At first glance, Section D directly negates any payments to anyone otherwise eligible. However, this legislation is merely meant to open the door to future eligibility of compensation and benefits. Once funds are made available, this section will be amended to provide for such benefits and compensation.

This is significant as under current Ohio law as psychological injuries are not compensable injuries in the State of Ohio without an accompanying physical injury. In *Armstrong*, the Supreme Court of Ohio ruled that “For ... PTSD to qualify as a compensable injury under R.C. 4123.01(C)(1), ... more is required; [claimants] must establish that PTSD was causally related to his compensable physical injuries and not simply to his or her involvement in the accident.” *Armstrong v. John R. Jurgensen Co.*, 136 Ohio St. 3d 58; 2013-Ohio-2237. ORC 4123.01 (C)(1) requires a direct and proximate causal connection between the physical injury and psychological condition. Following this logic, some types of psychological injuries may lack that nexus and are thus not compensable. While *Armstrong’s* logic is certainly sound, its application to first responders was arguably overbroad. House Bill 308 addresses that oversight, while maintaining the foundation of the principals behind ORC 4123.01 (C)(1).

The Ohio legislature’s specific allowance of PTSD for first responders to participate in a completely separate fund, without amending the Ohio Workers’ Compensation Statute, serves two significant purposes: it reaffirms *Armstrong’s* reliance that ORC 4123.01 (C)(1) requires an alleged psychological injury to have a causal connection to the underlying physical injury, and it carves out an exception to first responders who suffer from PTSD from psychological injuries that occurred in the course and scope of employment.

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