

# ASSEMBLY, No. 5771

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 18, 2021

**Sponsored by:**

**Assemblyman BRIAN BERGEN**

**District 25 (Morris and Somerset)**

**Assemblyman KEVIN J. ROONEY**

**District 40 (Bergen, Essex, Morris and Passaic)**

**Assemblyman WILLIAM F. MOEN, JR.**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Provides employment protections for paid first responders diagnosed with post-traumatic stress disorder under certain conditions.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/21/2021)**

1 AN ACT concerning paid first responders and post-traumatic stress  
2 disorder and supplementing Title 34 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. This act shall be known as the "New Jersey First Responders  
8 Post-Traumatic Stress Disorder Protection Act."

9

10 2. As used in this act:

11 "Employee" means a first responder holding a position of paid  
12 employment with an employer.

13 "Employer" means an entity that employs paid first responders.

14 "First responder" means a law enforcement officer, paid  
15 firefighter, or paid member of a duly incorporated first aid,  
16 emergency, ambulance, or rescue squad association.

17 "Law enforcement officer" means a person employed as a  
18 permanent full-time member of any federal, State, county or  
19 municipal law enforcement agency, department, or division of those  
20 governments who is statutorily empowered to act for the detection,  
21 investigation, arrest, conviction, detention, or rehabilitation of  
22 persons violating the criminal laws of this State or of the United  
23 States and statutorily required to successfully complete a training  
24 course approved by the Police Training Commission pursuant to  
25 P.L.1961, c.56 (C.52:17B-66 et seq.), or certified by the  
26 commission as being substantially equivalent to an approved  
27 course.

28

29 3. a. An employer shall not discharge, harass, or otherwise  
30 discriminate or retaliate or threaten to discharge, harass, or  
31 otherwise discriminate or retaliate against an employee with respect  
32 to the compensation, terms, conditions, duties, or privileges of  
33 employment on the basis that the employee took or requested any  
34 leave related to a qualifying diagnosis of post-traumatic stress  
35 disorder. Following a period of leave related to a qualifying  
36 diagnosis of post-traumatic stress disorder, an employer shall  
37 reinstate an employee whose fitness to return to work has been  
38 documented by a licensed physician or licensed mental health  
39 professional to the position and duties held by the employee prior to  
40 the leave.

41 b. A diagnosis of post-traumatic stress disorder is qualified  
42 under subsection a. of this section if:

43 (1) the diagnosis is made by a licensed physician or licensed  
44 mental health professional; and

45 (2) as determined by the licensed physician or licensed mental  
46 health professional, the post-traumatic stress disorder arose:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (a) as a direct result of the employee experiencing or witnessing  
2 a traumatic event during and within the scope of the performance of  
3 regular or assigned duties of the employee; or

4 (b) due to vicarious trauma experienced by the employee as a  
5 direct result of the performance of regular or assigned duties of the  
6 employee.

7

8 4. a. An employee or former employee may institute a civil  
9 action in the Superior Court for relief upon a violation of any of the  
10 provisions of section 3 of this act. All remedies available in  
11 common law tort actions shall be available to a prevailing plaintiff.  
12 The court may also order any or all of the following relief:

13 (1) an assessment of a civil fine of \$5,000 for the first violation  
14 of any of the provisions of section 3 of this act and \$10,000 for each  
15 subsequent violation;

16 (2) an injunction to restrain the continued violation of any of the  
17 provisions of section 3 or section 4 of this act;

18 (3) reinstatement of the employee to the same position or to a  
19 position equivalent to that which the employee held prior to  
20 unlawful discharge or retaliatory action;

21 (4) reinstatement of full fringe benefits and seniority rights;

22 (5) compensation for any lost wages, benefits, and other  
23 remuneration;

24 (6) payment of reasonable costs and attorney's fees.

25 b. An action brought under this section shall commence within  
26 one year of the date of the alleged violation.

27 c. A private cause of action provided for in this section shall be  
28 the sole remedy for a violation of this act.

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30 5. This act shall take effect immediately.

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#### STATEMENT

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35 This bill establishes employment protections for paid first  
36 responders who are diagnosed with certain cases of work-related  
37 post-traumatic stress disorder (PTSD).

38 Under the bill, an employer would be prohibited from  
39 discharging, harassing, or otherwise discriminating against an  
40 employee, or threatening to do so, with respect to the compensation,  
41 terms, conditions, duties, or privileges of employment on the basis  
42 that the employee took or requested any leave related to a  
43 qualifying diagnosis of PTSD. Under the bill, a PTSD diagnosis  
44 qualifies if it is made by a licensed physician or licensed mental  
45 health professional and as determined by the practitioner, the post-  
46 traumatic stress disorder arose:

1 (1) as a direct result of the employee experiencing or witnessing  
2 a traumatic event during and within the scope of the performance of  
3 regular or assigned duties of the employee; or

4 (2) due to vicarious trauma experienced by the employee as a  
5 direct result of the performance of regular or assigned duties of the  
6 employee.

7 The bill provides that if an employer violates its provisions, an  
8 employee or former employee would be authorized to institute a  
9 civil action in the Superior Court for relief. All remedies available  
10 in common law tort actions would be available to a prevailing  
11 plaintiff. Additionally, the bill provides that a court would be  
12 authorized to order any or all of the following relief:

13 (1) an assessment of a civil fine of \$5,000 and \$10,000 for each  
14 subsequent violation;

15 (2) an injunction to restrain the continued violation of any of the  
16 provisions of the bill;

17 (3) reinstatement of the employee to the same position or to a  
18 position equivalent to that which the employee held prior to  
19 unlawful discharge or retaliatory action;

20 (4) reinstatement of full fringe benefits and seniority rights;

21 (5) compensation for any lost wages, benefits and other  
22 remuneration;

23 (6) payment of reasonable costs and attorney's fees.

24 The bill defines a "first responder" to include a law enforcement  
25 officer, paid firefighter, or paid member of a duly incorporated first  
26 aid, emergency, ambulance, or rescue squad association. "Law  
27 enforcement officer" is defined in the bill as a person employed as a  
28 permanent full-time member of any federal, State, county or  
29 municipal law enforcement agency, department, or division of those  
30 governments who is statutorily empowered to act for the detection,  
31 investigation, arrest, conviction, detention, or rehabilitation of  
32 persons violating the criminal laws of this State or of the United  
33 States and statutorily required to successfully complete a training  
34 course approved by the Police Training Commission or certified by  
35 the commission as being substantially equivalent to an approved  
36 course.