

Subject Duty Disability
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Overview

Among other things, this bill requires treatment of a psychological condition before a peace officer or firefighter may apply for duty disability benefits from the Minnesota State Retirement System (MSRS) or the Public Employees Retirement Association (PERA). The bill also modifies vesting, total and permanent disability benefits, and disability reemployment offset requirements for PERA's Police and Fire Plan.

Section 2 requires public employers to provide wellness training or an employee assistance program to peace officers and firefighters in order to be eligible for state reimbursement of certain treatment, employee compensation, and health insurance costs. Sections 3 to 8 apply to members of the State Patrol Retirement Plan administered by MSRS. Sections 9 to 25 and 29 apply to PERA members. Section 26 requires the Department of Public Safety (DPS) to create a wellness training course, makes wellness training a prerequisite for peace officer licensing beginning July 1, 2024, and requires local and state law enforcement agencies to provide in-service wellness training. Sections 27 and 28 allocate a total of \$104 million one time for PERA and MSRS psychological treatment administration and DPS payments to public employers through the modified public safety officer's benefit account.

Summary

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| 1 | <p>Public safety officer's benefit account.</p> <p>Requires DPS to report to the legislature annually regarding the financial status of the public safety officer's benefit account. If DPS anticipates that money in the account will be insufficient to fund all eligible reimbursements and payments, the agency must report the estimated additional amount needed to fully fund these anticipated expenses.</p> |
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2	<p>Public employer reimbursement.</p> <p>Modifies an existing provision requiring the state to reimburse public employers for statutorily required continued medical insurance for eligible disabled public safety officers and firefighters. Effective January 1, 2024, a public employer must provide peace officers and firefighters annual wellness training or an employee assistance program or peer support program to be eligible for this reimbursement. Specifies criteria for wellness training and wellness training program development.</p>
3	<p>Duty disability. [MSRS]</p> <p>Modifies duty disability requirements for an applicant with a psychological condition to require the applicant to provide evidence that they are unable to perform the duties of the position they held at the time of their injury, or a similar position to the one they held at the time of injury.</p>
4	<p>Applying for benefits; accrual. [MSRS]</p> <p>Makes consistent reference in the application for benefits accrual provision under section 352B.10 to the new psychological condition treatment requirements under section 352B.102 for a MSRS State Patrol retirement plan member.</p>
5	<p>Proof of disability. [MSRS]</p> <p>Makes consistent reference in the proof of disability provision under section 352B.10 to the new psychological condition treatment requirements under section 352B.102 for a MSRS State Patrol retirement plan member.</p>
6	<p>Application for disability benefit. [MSRS]</p> <p>Makes consistent references in the disability benefit application provision under section 352B.101 to the new psychological condition treatment requirements under section 352B.102 for a MSRS State Patrol retirement plan member. Clarifies that an applicant for duty disability based on a psychological condition must meet the additional requirements under section 352B.102 before applying, including completion of treatment.</p>
7	<p>Application for psychological condition treatment. [MSRS]</p> <p>Subd. 1. Definitions. Provides definitions used in the new psychological condition treatment requirements under section 35B.102 for a MSRS State Patrol retirement plan member, including specifications for the type of “treatment” required. A “psychological condition” is defined as having a “mental illness,” as defined in the subdivision.</p> <p>Subd. 2. Application; dual diagnosis. Clarifies that the new psychological condition treatment under this section does not apply to a duty disability applicant with a dual diagnosis of both a psychological and physical condition. A</p>

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dual diagnosis applicant may elect to seek treatment but is not required as a prerequisite.

Subd. 3. Approval. Establishes the application process for the psychological condition treatment. Requires the applicant to submit an application to MSRS with a report from one mental health professional indicating they are diagnosed with a mental illness and are unable to perform the normal duties of their position, as well as employer documentation of their dates of employment in an applicable position. Requires the employer to provide certification within five days, and requires approval by MSRS within 14 days of application. An applicant may commence treatment while an application is pending.

Subd. 4. Treatment required. Requires completion of up to 24 weeks of treatment as outlined in the subdivision before an applicant with a psychological condition may apply for duty disability benefits. Provides that an applicant is not penalized for nonconsecutive treatment periods that are unintentional. Requires the employer to pay the treatment costs up to a limit. Includes progress reporting requirements for the employee's treatment provider, and outlines options for full- or part-time return to work, return to light duties, and related presumption of fitness for duty. Limits treatment to three times in ten years.

Subd. 5. Continuation of salary and benefits. Requires an employer to continue to pay a current employee's full salary and employer-provided benefits, including health and retirement benefits, dependent benefits, and any benefits provided under an applicable collective bargaining agreement during the treatment period. Provides for a 30-day grace period for a continuation of salary and benefits if an employee is unable to receive treatment due to circumstances beyond their control. The grace period may be extended beyond 30 days with written documentation from a mental health provider or facility of a treatment start date.

Subd. 6. Termination or continuation of psychological condition treatment. After completing up to 24 weeks of treatment, MSRS can make one of three determinations: (1) continue treatment approval for an additional eight weeks of treatment; (2) end the psychological condition treatment because the employee is able to return to their position full-time or to another comparable position; or (3) confirm the employee has met and completed the psychological condition treatment requirements (or additional treatment requirements, if applicable), after which the employee may apply for disability benefits based on a psychological condition as provided under existing law. MSRS will approve the disability benefit under the process provided under existing law. A fitness for duty presumption applies to an employee who is deemed able to return to work as provided in this subdivision.

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Subd. 7. Additional treatment. Provides for eight weeks of additional treatment at the end of the 24 weeks at the direction of a mental health professional when the employee's prognosis is expected to improve with further treatment. Provides that an applicant is not penalized for nonconsecutive treatment periods that are unintentional. Requires the employer to pay the additional treatment costs up to a limit. Includes progress reporting requirements for the employee's treatment provider, and outlines options for full- or part-time return to work, return to light duties, and related presumption of fitness for duty. Limits treatment to three times in ten years.

Subd. 8. Treatment data. Provides that a health record arising from treatment under this section is private data on individuals under the Minnesota Government Data Practices Act and cannot be shared or disclosed, including through a legal action or investigation.

Subd. 9. Employing entity reimbursement; limit. Allows an employer to apply for reimbursement for the costs of treatment and continuing salary and benefits as provided under this section. Limits an employer's liability per employee to no more than three periods of treatment plus the associated continuation of salary and benefits in ten years.

Subd. 10. Fitness for duty presumption. Establishes a fitness for duty presumption for an employee who is cleared to return to work or light duty as provided under this section, unless an exception applies. An employee found to be unfit for duty is presumed eligible for a duty disability or may appeal that determination to a qualified independent medical provider of their choosing from an established panel. Establishes a panel of five licensed psychologists or psychiatrists, established by agreement of the specified entities, for the purposes of this independent appeal. If an employee does not select a qualified professional from the panel within ten days, the employer may do so. The appeal determination is final and binding.

Subd. 11. Report. Requires the executive director of MSRS to submit a report to the legislature about the impact of this section on public safety duty disability trends and costs within four years of enactment.

Subd. 12. Relationship to workers' compensation. Provides that this section does not affect workers' compensation claims or benefits, with one exception – treatment for a psychological condition provided under this section would not be compensable under workers' compensation.

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8	Psychological condition treatment account. [MSRS] Establishes the psychological condition treatment account appropriating money to MSRS for the costs of administration of the new psychological condition treatment under section 352B.102.
9	Vesting. [PERA] Amends the vesting schedule under the PERA police and fire plan for all current members and former members who have not yet started to receive a retirement benefit to a graded ten-year vesting. Effective day following final enactment.
10	Application. [PERA] Makes consistent reference in the disability benefit application provision under section 353.031 to the new psychological condition treatment requirements under section 353.032 for peace officers and firefighters in the PERA police and fire plan. Clarifies that an applicant for duty disability based on a psychological condition must meet the additional requirements under section 353.032 before applying, including completion of treatment.
11	Procedure to determine eligibility; generally. [PERA] Clarifies application requirements for disability benefits, including the required application form and two medical reports. Requires PERA to notify the employer of a disability application, and the employer must provide certain information within 30 days.
12	Additional requirements; eligibility for police and fire or local government correctional service retirement plan disability benefits. [PERA] Modifies duty disability requirements for an applicant with a psychological condition to require the applicant to provide evidence that they are unable to perform the duties of the position they held at the time of their injury, or a similar position to the one they held at the time of injury.
13	Proof of eligibility upon reapplication. [PERA] Makes clarifications to the disability reapplication process at PERA. Requires a member to reapply each year for the first five years and every three years thereafter.
14	Application approval or denial; decision of executive director. [PERA] Makes conforming changes to PERA's reapplication process in existing law.
15	Application for psychological condition treatment. [PERA] Subd. 1. Definitions. Provides definitions used in the new psychological condition treatment requirements under section 353.032 for a PERA police and fire plan

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member, including specifying the type of treatment required. A “psychological condition” is defined as having a “mental illness,” as that term is defined.

Subd. 2. Application; dual diagnosis. Clarifies that the new psychological condition treatment under this section does not apply to a duty disability applicant with a dual diagnosis of both a psychological and physical condition. A dual diagnosis applicant may elect to seek treatment but is not required as a prerequisite.

Subd. 3. Approval. Establishes the application process for the psychological condition treatment. Requires the applicant to submit an application to PERA with a report from one mental health professional indicating they are diagnosed with a mental illness and are unable to perform the normal duties of their position, as well as employer documentation of their dates of employment in an applicable position. Requires the employer to provide certification within five days, and requires approval by PERA within 14 days of application. An applicant may commence treatment while an application is pending.

Subd. 4. Treatment required. Requires completion of up to 24 weeks of treatment as outlined in the subdivision before an applicant with a psychological condition may apply for duty disability benefits. Provides that an applicant is not penalized for nonconsecutive treatment periods that are unintentional. Requires the employer to pay the treatment costs up to a limit. Includes progress reporting requirements for the employee’s treatment provider, and outlines options for full or part-time return to work, return to light duties, and related presumption of fitness for duty. Limits treatment to three times in ten years.

Subd. 5. Continuation of salary and benefits. Requires an employer to continue to pay a current employee’s full salary and employer-provided benefits, including health and retirement benefits, dependent benefits, and any benefits provided under an applicable collective bargaining agreement during the treatment period. Provides for a 30-day grace period for a continuation of salary and benefits if an employee is unable to receive treatment due to circumstances beyond their control. The grace period may be extended beyond 30 days with written documentation from a mental health provider or facility of a treatment start date.

Subd. 6. Termination or continuation of psychological condition treatment. After completing up to 24 weeks of treatment, PERA can make one of three determinations: (1) continue treatment approval for an additional eight weeks of treatment; (2) end the psychological condition treatment because the employee is able to return to their position full-time or to another comparable position; or (3) confirm the employee has met and completed the psychological condition treatment requirements (or additional treatment requirements, if applicable),

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after which the employee may apply for disability benefits based on a psychological condition as provided under existing law. PERA will approve the disability benefit under the process provided under existing law. A fitness for duty presumption applies to an employee who is deemed able to return to work as provided in this subdivision.

Subd. 7. Additional treatment. Provides for eight weeks of additional treatment at the end of the 24 weeks at the direction of a mental health professional when the employee's prognosis is expected to improve with further treatment. Provides that an applicant is not penalized for nonconsecutive treatment periods that are unintentional. Requires the employer to pay the additional treatment costs up to a limit. Includes progress reporting requirements for the employee's treatment provider, and outlines options for full- or part-time return to work, return to light duties, and related presumption of fitness for duty. Limits treatment to three times in ten years.

Subd. 8. Treatment data. Provides that a health record arising from treatment under this section is private data on individuals under the Minnesota Government Data Practices Act and cannot be shared or disclosed, including through a legal action or investigation.

Subd. 9. Employer reimbursement; limit. Allows an employer to apply for reimbursement for the costs of treatment and continuing salary and benefits as provided under this section. Limits an employer's liability per employee to no more than three periods of treatment plus the associated continuation of salary and benefits in ten years.

Subd. 10. Fitness for duty presumption. Establishes a fitness for duty presumption for an employee who is cleared to return to work or light duty as provided under this section, unless an exception applies. An employee found to be unfit for duty is presumed eligible for a duty disability or may appeal that determination to a qualified independent medical provider of their choosing from an established panel. Establishes a panel of five licensed psychologists or psychiatrists, established by agreement of the specified entities, for the purposes of this independent appeal. If an employee does not select a qualified professional from the panel within ten days, the employer may do so. The appeal determination is final and binding.

Subd. 11. Report. Requires the executive director of PERA to submit a report to the legislature about the impact of this section on public safety duty disability trends and costs within four years of enactment.

Subd. 12. Relationship to workers' compensation. Provides that this section does not affect workers' compensation claims or benefits, with one exception –

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	treatment for a psychological condition provided under this section would not be compensable under workers' compensation.
16	Psychological condition treatment account. [PERA] Establishes the psychological condition treatment account appropriating money to PERA for the costs of administration of the new psychological condition treatment under section 353.032.
17	Disabilitant earnings reports. [PERA] Makes conforming changes to the annual earnings report to remove a reference to workers' compensation, consistent with the removal of the offset for workers' compensation in section 29.
18	Duty disability; computation of benefits. [PERA] Makes clarifying changes to duty disability provision under existing law.
19	Total and permanent duty disability; computation of benefits. [PERA] Increases total and permanent duty disability benefits to 99 percent of a member's average salary and makes conforming changes to the total and permanent disability benefits under existing law.
20	Optional annuity election. [PERA] Makes clarifying changes to the optional annuity election under existing law.
21	Regular disability benefit. [PERA] Makes clarifying changes to the regular disability provision under existing law.
22	Total and permanent regular disability; computation of benefits. [PERA] Makes clarifying changes to the regular total and permanent disability provision under existing law.
23	Limitation on disability benefit payments. [PERA] Establishes two offsets to a disability benefit for members who are also receiving reemployment earnings.
24	Disability survivor benefits for members disabled before July 1, 2007. [PERA] Makes conforming changes.
25	Entitlement to receive a disability benefit. [PERA] Makes conforming changes.

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26	<p>Wellness training.</p> <p>Requires the Peace Officer Standards and Training (POST) Board to create learning objectives and DPS to establish a training course to prepare peace officers for the stressful and traumatic events that are common to policing and teach officers methods to process and cope with occupational stress and trauma. Requires both students studying law enforcement and licensed peace officers to receive the training. Preservice and in-service training requirements would be effective January 1, 2024. Requires state and local law enforcement agencies to maintain records of training compliance.</p>
27	<p>Transfers to the psychological condition treatment account.</p> <p>Transfers onetime resources to the new MSRS and PERA psychological condition treatment accounts.</p>
28	<p>Transfers to the public safety officer's benefit account.</p> <p>Transfers onetime resources to the public safety officer's benefit account to pay for DPS wellness training costs, PERA and MSRS administrative costs, and to reimburse public employers for eligible costs incurred.</p>
29	<p>Repealer. [PERA]</p> <p>Repeals the workers' compensation offset for disability benefits. Effective January 1, 2024.</p>



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