A BILL

To amend sections 4123.01, 4123.026, and 4123.46 and to enact sections 145.364, 742.391, 3309.402, 4123.87, and 5505.182 of the Revised Code concerning workers' compensation and disability retirement for peace officers, firefighters, and emergency medical workers diagnosed with post-traumatic stress disorder arising from employment without an accompanying physical injury.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4123.01, 4123.026, and 4123.46 be amended and sections 145.364, 742.391, 3309.402, 4123.87, and 5505.182 of the Revised Code be enacted to read as follows:

Sec. 145.364. Upon determining that a member's post-traumatic stress disorder, without an accompanying physical injury, qualifies that member for a disability benefit under section 145.36 or 145.361 of the Revised Code, the public employees retirement board, notwithstanding the exceptions to public inspection in division (A)(2) of section 145.27 of the Revised Code or the privileges contained in division (B) of that
section, shall notify the administrator of workers' compensation of all of the following:

(A) The name of the member;

(B) That the member's post-traumatic stress disorder, without an accompanying physical injury, qualifies that member for a disability benefit under section 145.36 or 145.361 of the Revised Code;

(C) The effective date of the member's disability benefit;

(D) The date that payments for the member's disability benefit commence.

Sec. 742.391. Upon determining that a member's post-traumatic stress disorder, without an accompanying physical injury, qualifies that member for a disability benefit under section 742.38 or 742.39 of the Revised Code, the board of trustees of the Ohio police and fire pension fund, notwithstanding the exceptions to public inspection in division (B) of section 742.41 of the Revised Code or the privileges contained in division (C) of that section, shall notify the administrator of workers' compensation of all of the following:

(A) The name of the member;

(B) That the member's post-traumatic stress disorder, without an accompanying physical injury, qualifies that member for a disability benefit under section 742.38 or 742.39 of the Revised Code;

(C) The effective date of the member's disability benefit;

(D) The date that payments for the member's disability benefit commence.
Sec. 3309.402. Upon determining that a member's post-traumatic stress disorder, without an accompanying physical injury, qualifies that member for a disability benefit under section 3309.35, 3309.40, or 3309.401 of the Revised Code, the school employees retirement board, notwithstanding the exceptions to public inspection in division (A)(2) of section 3309.22 of the Revised Code or the privileges contained in division (B) of that section, shall notify the administrator of workers' compensation of all of the following:

(A) The name of the member;

(B) That the member's post-traumatic stress disorder, without an accompanying physical injury, qualifies that member for a disability benefit under section 3309.35, 3309.40, or 3309.401 of the Revised Code;

(C) The effective date of the member's disability benefit;

(D) The date that payments for the member's disability benefit commence.

Sec. 4123.01. As used in this chapter:

(A)(1) "Employee" means:

(a) Every person in the service of the state, or of any county, municipal corporation, township, or school district therein, including regular members of lawfully constituted police and fire departments of municipal corporations and townships, whether paid or volunteer, and wherever serving within the state or on temporary assignment outside thereof, and executive officers of boards of education, under any appointment or contract of hire, express or implied, oral or written, including any elected official of the state, or of any county, municipal corporation, or township, or members of boards of
education.

As used in division (A)(1)(a) of this section, the term "employee" includes the following persons when responding to an inherently dangerous situation that calls for an immediate response on the part of the person, regardless of whether the person is within the limits of the jurisdiction of the person's regular employment or voluntary service when responding, on the condition that the person responds to the situation as the person otherwise would if the person were on duty in the person's jurisdiction:

(i) Off-duty peace officers. As used in division (A)(1)(a) (i) of this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(ii) Off-duty firefighters, whether paid or volunteer, of a lawfully constituted fire department.

(iii) Off-duty first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, or emergency medical technicians-paramedic, whether paid or volunteer, emergency medical workers of an ambulance service organization or emergency medical service organization pursuant to Chapter 4765. of the Revised Code.

(b) Every person in the service of any person, firm, or private corporation, including any public service corporation, that (i) employs one or more persons regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, including aliens and minors, household workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single household and casual workers who earn one hundred sixty dollars
or more in cash in any calendar quarter from a single employer, or (ii) is bound by any such contract of hire or by any other written contract, to pay into the state insurance fund the premiums provided by this chapter.

(c) Every person who performs labor or provides services pursuant to a construction contract, as defined in section 4123.79 of the Revised Code, if at least ten of the following criteria apply:

(i) The person is required to comply with instructions from the other contracting party regarding the manner or method of performing services;

(ii) The person is required by the other contracting party to have particular training;

(iii) The person's services are integrated into the regular functioning of the other contracting party;

(iv) The person is required to perform the work personally;

(v) The person is hired, supervised, or paid by the other contracting party;

(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;

(vii) The person's hours of work are established by the other contracting party;

(viii) The person is required to devote full time to the business of the other contracting party;

(ix) The person is required to perform the work on the
(x) The person is required to follow the order of work set
by the other contracting party;

(xi) The person is required to make oral or written
reports of progress to the other contracting party;

(xii) The person is paid for services on a regular basis
such as hourly, weekly, or monthly;

(xiii) The person's expenses are paid for by the other
contracting party;

(xiv) The person's tools and materials are furnished by
the other contracting party;

(xv) The person is provided with the facilities used to
perform services;

(xvi) The person does not realize a profit or suffer a
loss as a result of the services provided;

(xvii) The person is not performing services for a number
of employers at the same time;

(xviii) The person does not make the same services
available to the general public;

(xix) The other contracting party has a right to discharge
the person;

(xx) The person has the right to end the relationship with
the other contracting party without incurring liability pursuant
to an employment contract or agreement.

Every person in the service of any independent contractor
or subcontractor who has failed to pay into the state insurance
fund the amount of premium determined and fixed by the
administrator of workers' compensation for the person's employment or occupation or who is a self-insuring employer and who has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.

(2) "Employee" does not mean any of the following:

(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry;

(b) Any officer of a family farm corporation;

(c) An individual incorporated as a corporation;

(d) An officer of a nonprofit corporation, as defined in section 1702.01 of the Revised Code, who volunteers the person's services as an officer;

(e) An individual who otherwise is an employee of an employer but who signs the waiver and affidavit specified in section 4123.15 of the Revised Code on the condition that the administrator has granted a waiver and exception to the individual's employer under section 4123.15 of the Revised Code;

(f)(i) A qualifying employee described in division (A)(14)(a) of section 5703.94 of the Revised Code when the qualifying employee is performing disaster work in this state during a disaster response period pursuant to a qualifying solicitation received by the employee's employer;
(ii) A qualifying employee described in division (A)(14) (b) of section 5703.94 of the Revised Code when the qualifying employee is performing disaster work in this state during a disaster response period on critical infrastructure owned or used by the employee's employer;

(iii) As used in division (A)(2)(f) of this section, "critical infrastructure," "disaster response period," "disaster work," and "qualifying employee" have the same meanings as in section 5703.94 of the Revised Code.

Any employer may elect to include as an "employee" within this chapter, any person excluded from the definition of "employee" pursuant to division (A)(2)(a), (b), (c), or (e) of this section in accordance with rules adopted by the administrator, with the advice and consent of the bureau of workers' compensation board of directors. If an employer is a partnership, sole proprietorship, individual incorporated as a corporation, or family farm corporation, such employer may elect to include as an "employee" within this chapter, any member of such partnership, the owner of the sole proprietorship, the individual incorporated as a corporation, or the officers of the family farm corporation. Nothing in this section shall prohibit a partner, sole proprietor, or any person excluded from the definition of "employee" pursuant to division (A)(2)(a), (b), (c), or (e) of this section from electing to be included as an "employee" under this chapter in accordance with rules adopted by the administrator, with the advice and consent of the board.

In the event of an election, the employer or person electing coverage shall serve upon the bureau of workers' compensation written notice naming the person to be covered and include the person's remuneration for premium purposes in all
future payroll reports. No partner, sole proprietor, or person
excluded from the definition of "employee" pursuant to division
(A)(2)(a), (b), (c), or (e) of this section, shall receive
benefits or compensation under this chapter until the bureau
receives written notice of the election permitted by this
section.

For informational purposes only, the bureau shall
 prescribe such language as it considers appropriate, on such of
its forms as it considers appropriate, to advise employers of
their right to elect to include as an "employee" within this
chapter a sole proprietor, any member of a partnership, or a
person excluded from the definition of "employee" under division
(A)(2)(a), (b), (c), or (e) of this section, that they should
check any health and disability insurance policy, or other form
of health and disability plan or contract, presently covering
them, or the purchase of which they may be considering, to
determine whether such policy, plan, or contract excludes
benefits for illness or injury that they might have elected to
have covered by workers' compensation.

(B)(1) "Employer" means:

(a) The state, including state hospitals, each county,
municipal corporation, township, school district, and hospital
owned by a political subdivision or subdivisions other than the
state;

(b) Every person, firm, professional employer
organization, and private corporation, including any public
service corporation, that (i) has in service one or more
employees or shared employees regularly in the same business or
in or about the same establishment under any contract of hire,
express or implied, oral or written, or (ii) is bound by any
such contract of hire or by any other written contract, to pay into the insurance fund the premiums provided by this chapter.

All such employers are subject to this chapter. Any member of a firm or association, who regularly performs manual labor in or about a mine, factory, or other establishment, including a household establishment, shall be considered an employee in determining whether such person, firm, or private corporation, or public service corporation, has in its service, one or more employees and the employer shall report the income derived from such labor to the bureau as part of the payroll of such employer, and such member shall thereupon be entitled to all the benefits of an employee.

(2) "Employer" does not include a franchisor with respect to the franchisor's relationship with a franchisee or an employee of a franchisee, unless the franchisor agrees to assume that role in writing or a court of competent jurisdiction determines that the franchisor exercises a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademark, brand, or both. For purposes of this division, "franchisor" and "franchisee" have the same meanings as in 16 C.F.R. 436.1.

(C) "Injury" includes any injury, whether caused by external accidental means or accidental in character and result, received in the course of, and arising out of, the injured employee's employment. "Injury" does not include:

(1) Psychiatric conditions except where as follows:

(a) Where the claimant's psychiatric conditions have arisen from an injury or occupational disease sustained by that
claimant or where:

(b) Where the claimant's psychiatric conditions have arisen from sexual conduct in which the claimant was forced by threat of physical harm to engage or participate;

(c) Where the claimant is a peace officer, firefighter, or emergency medical worker and is diagnosed with post-traumatic stress disorder that has been received in the course of, and has arisen out of, the claimant's employment as a peace officer, firefighter, or emergency medical worker.

(2) Injury or disability caused primarily by the natural deterioration of tissue, an organ, or part of the body;

(3) Injury or disability incurred in voluntary participation in an employer-sponsored recreation or fitness activity if the employee signs a waiver of the employee's right to compensation or benefits under this chapter prior to engaging in the recreation or fitness activity;

(4) A condition that pre-existed an injury unless that pre-existing condition is substantially aggravated by the injury. Such a substantial aggravation must be documented by objective diagnostic findings, objective clinical findings, or objective test results. Subjective complaints may be evidence of such a substantial aggravation. However, subjective complaints without objective diagnostic findings, objective clinical findings, or objective test results are insufficient to substantiate a substantial aggravation.

(D) "Child" includes a posthumous child and a child legally adopted prior to the injury.

(E) "Family farm corporation" means a corporation founded for the purpose of farming agricultural land in which the
majority of the voting stock is held by and the majority of the stockholders are persons or the spouse of persons related to each other within the fourth degree of kinship, according to the rules of the civil law, and at least one of the related persons is residing on or actively operating the farm, and none of whose stockholders are a corporation. A family farm corporation does not cease to qualify under this division where, by reason of any devise, bequest, or the operation of the laws of descent or distribution, the ownership of shares of voting stock is transferred to another person, as long as that person is within the degree of kinship stipulated in this division.

(F) "Occupational disease" means a disease contracted in the course of employment, which by its causes and the characteristics of its manifestation or the condition of the employment results in a hazard which distinguishes the employment in character from employment generally, and the employment creates a risk of contracting the disease in greater degree and in a different manner from the public in general.

(G) "Self-insuring employer" means an employer who is granted the privilege of paying compensation and benefits directly under section 4123.35 of the Revised Code, including a board of county commissioners for the sole purpose of constructing a sports facility as defined in section 307.696 of the Revised Code, provided that the electors of the county in which the sports facility is to be built have approved construction of a sports facility by ballot election no later than November 6, 1997.

(H) "Private employer" means an employer as defined in division (B)(1)(b) of this section.

(I) "Professional employer organization" has the same
meaning as in section 4125.01 of the Revised Code.

(J) "Public employer" means an employer as defined in division (B)(1)(a) of this section.

(K) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of gender; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

(L) "Other-states' insurer" means an insurance company that is authorized to provide workers' compensation insurance coverage in any of the states that permit employers to obtain insurance for workers' compensation claims through insurance companies.

(M) "Other-states' coverage" means both of the following:

1. Insurance coverage secured by an eligible employer for workers' compensation claims of employees who are in employment relationships localized in a state other than this state or those employees' dependents;

2. Insurance coverage secured by an eligible employer for workers' compensation claims that arise in a state other than this state where an employer elects to obtain coverage through either the administrator or an other-states' insurer.

(N) "Limited other-states coverage" means insurance coverage provided by the administrator to an eligible employer for workers' compensation claims of employees who are in an employment relationship localized in this state but are temporarily working in a state other than this state, or those
employees' dependents.

(O) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(P) "Firefighter" means a firefighter, whether paid or volunteer, of a lawfully constituted fire department.

(Q) "Emergency medical worker" means a first responder, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, certified under Chapter 4765. of the Revised Code, whether paid or volunteer.

Sec. 4123.026. (A) The administrator of workers' compensation, or a self-insuring public employer for the peace officers, firefighters, and emergency medical workers employed by or volunteering for that self-insuring public employer, shall pay the costs of conducting post-exposure medical diagnostic services, consistent with the standards of medical care existing at the time of the exposure, to investigate whether an injury or occupational disease was sustained by a peace officer, firefighter, or emergency medical worker when coming into contact with the blood or other body fluid of another person in the course of and arising out of the peace officer's, firefighter's, or emergency medical worker's employment, or when responding to an inherently dangerous situation in the manner described in, and in accordance with the conditions specified under, division (A)(1)(a) of section 4123.01 of the Revised Code, through any of the following means:

(A) Splash or spatter in the eye or mouth, including when received in the course of conducting mouth-to-mouth resuscitation;
(2) **(B)** A puncture in the skin;

(3) **(C)** A cut in the skin or another opening in the skin such as an open sore, wound, lesion, abrasion, or ulcer.

**(B)** As used in this section:

(1) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(2) "Firefighter" means a firefighter, whether paid or volunteer, of a lawfully constituted fire department.

(3) "Emergency medical worker" means a first responder, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, certified under Chapter 4765. of the Revised Code, whether paid or volunteer.

**Sec. 4123.46.** (A)(1) Except as provided in division (A)(2) of this section, the bureau of workers' compensation shall disburse the state insurance fund to employees of employers who have paid into the fund the premiums applicable to the classes to which they belong when the employees have been injured in the course of their employment, wherever the injuries have occurred, and provided the injuries have not been purposely self-inflicted, or to the dependents of the employees in case death has ensued.

(2) As long as injuries have not been purposely self-inflicted, the bureau shall disburse the surplus fund created under section 4123.34 of the Revised Code to off-duty peace officers, firefighters, and emergency medical technicians, and first responders workers, or to their dependents if death ensues, who are injured while responding to inherently dangerous situations that call for an immediate response on the part of
the person, regardless of whether the person was within the
limits of the person's jurisdiction when responding, on the
condition that the person responds to the situation as the
person otherwise would if the person were on duty in the
person's jurisdiction.

As used in division (A)(2) of this section, "peace
officer," "firefighter," "emergency medical technician," "first-
responder," and "jurisdiction" have the same meanings as in
section 4123.01 of the Revised Code.

(B) All self-insuring employers, in compliance with this
chapter, shall pay the compensation to injured employees, or to
the dependents of employees who have been killed in the course
of their employment, unless the injury or death of the employee
was purposely self-inflicted, and shall furnish the medical,
surgical, nurse, and hospital care and attention or funeral
expenses as would have been paid and furnished by virtue of this
chapter under a similar state of facts by the bureau out of the
state insurance fund if the employer had paid the premium into
the fund.

If any rule or regulation of a self-insuring employer
provides for or authorizes the payment of greater compensation
or more complete or extended medical care, nursing, surgical,
and hospital attention, or funeral expenses to the injured
employees, or to the dependents of the employees as may be
killed, the employer shall pay to the employees, or to the
dependents of employees killed, the amount of compensation and
furnish the medical care, nursing, surgical, and hospital
attention or funeral expenses provided by the self-insuring
employer's rules and regulations.

(C) Payment to injured employees, or to their dependents
in case death has ensued, is in lieu of any and all rights of
action against the employer of the injured or killed employees.

Sec. 4123.87. (A) Notwithstanding any provision in section
4123.52, 4123.54, 4123.55, 4123.56, 4123.57, 4123.58, 4123.59,
4123.60, or 4123.66 of the Revised Code to the contrary, in the
case of disability due to an injury described in division (C)(1)
(c) of section 4123.01 of the Revised Code:

(1) Any entitlement of a claimant to compensation as a
result of any order issued under this chapter or Chapter 4121.,
4127., or 4131. of the Revised Code regarding that injury shall
cease not later than one year after the date those payments
commence under division (H) of section 4123.511 of the Revised
Code.

(2) Any entitlement of a claimant to medical benefits
under this chapter or Chapter 4121., 4127., or 4131. of the
Revised Code regarding that injury shall cease not later than
one year after those payments commence under division (I) of
section 4123.511 of the Revised Code.

(B) No claimant shall be entitled to compensation or
benefits under this chapter for an injury described in division
(C)(1)(c) of section 4123.01 of the Revised Code for any period
of time during which the claimant received a disability benefit
or disability retirement from the public employees retirement
system, the Ohio police and fire pension fund, the school
employees retirement system, or the state highway patrol
retirement system.

(C) If a claimant receives an award of compensation or
benefits under this chapter or Chapter 4121., 4127., or 4131. of
the Revised Code for an injury described in division (C)(1)(c)
of section 4123.01 of the Revised Code for the same time period
for which the claimant received a disability benefit or
disability retirement from the public employees retirement
system, the Ohio police and fire pension fund, the school
employees retirement system, or the state highway patrol
retirement system, the administrator or any self-insuring
employer, by any lawful means, may collect from the employee or
the employee's dependents any of the following:

(1) The amount of compensation or benefits paid to the
claimant by the administrator or a self-insuring employer
pursuant to this chapter or Chapter 4121., 4127., or 4131. of
the Revised Code for that time period;

(2) Any interest, attorney's fees, and costs the
administrator or the self-insuring employer incurs in collecting
that payment.

Sec. 5505.182. Upon determining that a member's post-
traumatic stress disorder, without an accompanying physical
injury, qualifies that member for disability retirement under
section 5505.18 of the Revised Code, the state highway patrol
retirement board, notwithstanding the exceptions to public
inspection in division (C)(2) of section 5505.04 of the Revised
Code or the privileges contained in division (D) of that
section, shall notify the administrator of workers' compensation
of all of the following:

(A) The name of the member;

(B) That the member's post-traumatic stress disorder,
without an accompanying physical injury, qualifies that member
for disability retirement under section 5505.18 of the Revised
Code;
(C) The effective date of the member's disability retirement;

(D) The date that payments for the member's disability retirement commence.

Section 2. That existing sections 4123.01, 4123.026, and 4123.46 of the Revised Code are hereby repealed.