

SENATE No. 1982

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to provide counseling services and medical leave for crew members of a railroad company involved in an accident resulting in loss of life or serious bodily injury..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter one hundred fifty-nine of the General Laws is hereby amended by
2 inserting after section 28 the following section:

3 Section 28A. (1)(a) Every Railroad corporation and railway company shall
4 provide or make available to every member of an operating crew involved in an accident on its
5 railway or right of way which results in loss of life or serious bodily injury, counseling services
6 or other critical incident stress debriefing services within 48 hours, provided, that the engineer,
7 or other operating crew member involved in said accident shall be relieved from duty with
8 compensation and applicable benefits at the site of said accident for a minimum of three days;
9 provided, further, that said leave may be without compensation and benefit if the railroad
10 corporation makes the affirmative showing that the accident was due to negligence of an
11 engineer or other operating crew member;

provided, however, that any person who is otherwise eligible for these benefits and who has been found to have not acted negligently shall not be precluded from participation due to the negligence of a fellow crew member.

(B) Any engineer returning to duty following such leave shall, if he so requests, be assigned an assistant engineer or other qualified person who shall accompany him for such reasonable time as may be necessary to guarantee the public safety. Any engineer or crew member may be subject to an examination at the discretion of the employer, pertaining to any mental or emotional impairment caused by said incident during the period of leave, or upon return to duty, by a qualified medical practitioner designated by the employer.

(c) The Department shall promulgate rules and regulations necessary for the implementation and enforcement of the provisions of this section provided, however, that any person who is otherwise eligible for these benefits and who has been found to have not acted negligently shall not be precluded from participation due to the negligence of a fellow crew member.

(B) Any engineer returning to duty following such leave shall, if he so requests, be assigned an assistant engineer or other qualified person who shall accompany him for such reasonable time as may be necessary to guarantee the public safety. Any engineer or crew member may be subject to an examination at the discretion of the employer, pertaining to any mental or emotional impairment caused by said incident during the period of leave, or upon return to duty, by a qualified medical practitioner designated by the employer.

(c) The Department shall promulgate rules and regulations necessary for the implementation and enforcement of the provisions of this section.