

SENATE No. 1509

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the disability or death caused by post-traumatic stress disorder (PTSD).

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>1/24/2019</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>1/29/2019</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>1/30/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/30/2019</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/30/2019</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>1/31/2019</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/31/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/31/2019</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>2/1/2019</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>2/1/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/8/2019</i>

SENATE No. 1509

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 1509) of Sal N. DiDomenico, Michael D. Brady, Walter F. Timilty, Marc R. Pacheco and other members of the General Court for legislation relative to the disability or death caused by post-traumatic stress disorder (PTSD). Public Service.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act relative to the disability or death caused by post-traumatic stress disorder (PTSD).

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 (1) Notwithstanding the provisions of any general or special law to the
2 contrary affecting the non-contributory or contributory retirement system, any condition of
3 impairment of health caused by post-traumatic stress disorder or mental impairment as defined in
4 paragraph (a), diagnosed by a mental health professional as defined in paragraph (b), resulting in
5 total or partial disability or death to a full-time uniformed member of a paid police department,
6 fire department, municipal emergency medical service department, or of the police department of
7 the Massachusetts Bay Transportation Authority, or of the state police, or of the public works
8 building police, or to any employee in the department of corrections or a county correctional
9 facility whose regular or incidental duties require the care, supervision or custody of prisoners,
10 criminally insane persons or defective delinquents, or to any permanent crash crewmen, crash
11 boatman, fire controlman or assistant fire controlman employed at the General Edward
12 Lawrence Logan International Airport, or the members of the 104th fighter wing fire department

or members of the Massachusetts military reservation fire department, shall if he/she successfully passed a physical examination on entry into such service, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the line of duty, unless it is shown by a preponderance of the evidence that the post-traumatic stress or mental impairment was caused by non-service connected risk factors or non-service connected exposure.

(a) "Post-traumatic stress disorder," a disorder that meets the diagnostic criteria for post-traumatic stress, specified by the American Psychiatric Association in the diagnostic and statistics manual of mental disorders, fifth edition, (DSM-5) or most recently published edition.

(b) "Mental health professional," a person with professional training, experience, and demonstrated competence in the treatment and diagnosis of mental conditions, who is certified or licensed to provide mental health care services and for whom diagnosis of mental conditions are within his/her scope of practice, including a physician, nurse with recognized psychiatric specialties, psychiatrist, psychologist, clinical social worker, mental health counselor, or alcohol and drug abuse counselor.

(2) The provisions of this section shall not apply to any person serving in such positions for fewer than five years at the time that such condition of post-traumatic stress disorder or mental impairment is first diagnosed, unless such condition of post-traumatic stress disorder or mental impairment can be demonstrated by a preponderance of the evidence that the work related event or work related stress which caused the post-traumatic stress disorder or mental impairment was extraordinary and unusual in comparison to pressures and tensions experienced by the average employee across all occupations, and that the work related event or work related

35 stress, and not some other event or source of stress, was the predominant cause of the post-
36 traumatic stress disorder or mental impairment. Any person first diagnosed with any such
37 condition of post-traumatic stress disorder or mental impairment within five years of the last date
38 on which such person actively so served shall be eligible to apply for benefits hereunder, and
39 such benefits, if granted, shall be payable as of the date on which the employee last received
40 regular compensation.

41 (3) Any condition of post-traumatic stress disorder or mental impairment shall not be
42 presumed to have been suffered in the line of duty if by accident arising out of and in the course
43 of employment if it results from any disciplinary action, work evaluation, job transfer, layoff,
44 demotion, termination, resignation, retirement, or similar action taken in good faith by the
45 employer.