

March 20, 2023

1000 hours

State House , Room 436

LD 439 An Act to Allow Death by Suicide to be Considered a Death While in the Line of Duty

Good Morning,

Senator Beebe-Center, Representative Salisbury and distinguished members of the Committee on Criminal Justice and Public Safety. My name is Michael Robitaille, and I am the Fire Chief for the Town of Yarmouth. I have served in the Fire Service since 1983 in both career and volunteer organizations. I have also been an EMT since 1986 and a Paramedic since 1991. It has been my honor to serve as a Chief Fire Officer since 1995 and most recently for Yarmouth since 2004.

I stand before you today in support of LD 439 an Act to Allow Death by Suicide to be Considered a Death While in the Line of Duty. However, I urge you to consider an amendment to this as the proposal is too vague and subjective.

As a Fire Chief it is my distinct honor to serve as the Coordinator for the Local Assistance State Team, also known as the Last Team. We are a team that is part of the National Fallen Firefighters Foundation and it is our primary duty to submit or file for the Federal Death benefits through the Department of Justice. It is our mission to ensure that the families, who have suffered a Line of Duty Death, are compensated according to federal guidelines as part of the Public Safety Officers Death Benefits program. As the Coordinator of the LAST team for the last 16 years I have assisted many families with these benefits.

On August 16, 2022 The Department of Justice signed into law the Public Safety Officers Support Act of 2022. This is the latest amendment to the Public Safety Officers Benefit Act and includes "personal injury sustained in the line of duty. Post-Traumatic Stress Disorder (PTSD), Acute Stress Disorder (ASD) , and Trauma and Stress related Disorder (T/SD) where exposure to certain traumatic events while on duty is a substantial factor in the disorder. This amendment allows for the payment of death and disability benefits under certain circumstances where, following a traumatic event while on duty, the officer dies by suicide or is totally and permanently disabled as a result of the exposure or an attempt to die by suicide.

LD 439, although a step in the right direction, is vague and should have the same guidelines as the federal law. As this is written, it appears, any person who commits suicide would be eligible for benefits. Suicide alone should not be the defining factor for a Line of Duty Death benefit. A bad day at the casino, a fight with your spouse, or financial woes should not allow a person to kill themselves and then be classified as a Line of Duty Death because of their job title.

In closing I want to thank you and all who have submitted or participated in promoting LD 439. I support the efforts of those who bring this forward and hope we all can continue to take care of our own. I have attached copies of the federal guidelines for submission. I would also offer my support in working on changes to this law that would benefit those who have been affected mentally and physically from the traumas of our profession.

Respectfully Submitted,

Michael S. Robitaille, CFO III
Yarmouth Fire Rescue

FAQs



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PUBLIC SAFETY OFFICER SUPPORT ACT OF 2022 (PSOSA)

The Public Safety Officers' Benefits (PSOB) Office at the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, is honored to review the more than 1,200 claims submitted each year by survivors and injured officers for death, disability, and education benefits. The answers to Frequently Asked Questions (FAQs), below are intended to share practical information regarding the PSOB Program in an informal manner and should not be understood to substitute for the pertinent law. The PSOB Act and its implementing regulations, which provide the actual eligibility criteria, may be found at: [Law & Regulations | Bureau of Justice Assistance \(ojp.gov\)](#).

What is the Public Safety Officers' Benefits (PSOB) Act?

Enacted in 1976, the PSOB Act authorizes the payment of death benefits to certain eligible survivors of public safety officers who are fatally injured in the line of duty, disability benefits to public safety officers catastrophically injured

in the line of duty, and education benefits to the eligible spouses and children of those fatally or catastrophically injured officers.

Who is a public safety officer?

The PSOB Act defines a "public safety officer" as including:

- Law enforcement officers, including Corrections Officers
- Firefighters
- Members of Rescue Squads and Ambulance Crew, including Paramedics and EMTs, under certain circumstances
- Chaplains, under certain circumstances
- Disaster Relief Workers, under certain circumstances
- Certain Department of Energy Employees and Contractors, under certain circumstances
- Trainee Law enforcement Officers, Trainee Firefighters, and Trainee Rescue Squad or Ambulance Crew Members, under certain circumstances



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The Public Safety Officer Support Act of 2022

What is the Public Safety Officer Support Act of 2022 (PSOSA)?

Signed into law by the President on August 16, 2022, this latest amendment to the PSOB Act includes as a "personal injury sustained in the line of duty" Post-Traumatic Stress Disorder (PTSD), Acute Stress Disorder (ASD), and Trauma and Stress related Disorders (T/SD) where exposure to certain traumatic events while on-duty is a substantial factor in the disorder. The amendment also allows for the payment of death and disability benefits under certain circumstances where, following exposure to certain traumatic events while on duty, a public safety officer dies by suicide or is totally and permanently disabled as a result of the exposure or an attempt to die by suicide.

Who may file a claim under PSOSA for deaths or injuries related to suicide or a suicide attempt?

Generally speaking, a survivor or injured officer may be eligible for death or disability benefits based on the public safety officer's death by suicide, or attempt to die by suicide, if the action intended to bring about the officer's death occurred **on or after January 1, 2019**.

As the law makes these provisions retroactive to January 1, 2019, the PSOB Program will extend the filing times for claims or applications for benefits, so that claimants seeking death benefits in suicide cases or disability benefits for exposure-related or attempted-suicide related injuries are given the same amount of time to file an application as if the exposure or attempted suicide occurred on the date of PSOSA's enactment on August 16, 2022.

Who may file a claim under PSOSA for PTSD, ASD, or other T/SD?

Generally speaking, an individual may be eligible for disability benefits based on personal injury resulting from PTSD, ASD, or other T/SD in any of the following circumstances:

A timely PSOB application or claim for benefits was filed and is now pending with the PSOB Office (or was pending there on or after August 16, 2022).

A previously denied claim for benefits is now on appeal to a Hearing Officer or the Director of the Bureau of Justice Assistance (or was on appeal there on or after August 16, 2022).

A new and timely application or claim for benefits is filed on or after August 16, 2022.

By when does someone need to submit an application or claim for disability benefits, if a public safety officer has PTSD from an on-duty exposure to a traumatic event?

In general, applications or claims that are based on PTSD, ASD, or other T/SD resulting from an on-duty exposure to a traumatic event must be filed **before the later of** (1) August 16, 2025, which is three years from the date PSOSA was signed; (2) three years from the date of exposure to the traumatic event; or (3) one year from the date of a final determination of eligibility for, or denial of, disability benefits payable by or on behalf of the officer's public agency, such as workers' compensation or disability retirement. These timeframes reflect the application of PSOB regulatory filing timeframes to PSOSA's provisions.

What is required to qualify for death benefits based on an officer's death by suicide, or attempt to die by suicide, under PSOSA?

The amendment creates slightly different procedures for officers who die by suicide or attempt to die by suicide *within* 45 days of exposure to a traumatic event and those who die by suicide or attempt to die by suicide *more than* 45 days after exposure to a traumatic event.

Within 45 Days of Exposure to One or More Traumatic Events

Where the time between an officer's on-duty exposure to a traumatic event and an action taken by the officer intended to cause the officer's death is **45 days or less**, PSOSA requires evidence of **all** of the following—

The public safety officer was exposed, while on-duty, to one or more traumatic events, as defined by PSOSA;

The officer took an action intended to cause the officer's death;

The officer's action was the direct and proximate cause of the officer's death or permanent and total disability; and

The officer's action was not inconsistent with a psychiatric disorder.

More Than 45 Days From Exposure to One or More Traumatic Events

Where the time between a public safety officer's on-duty exposure to a traumatic event and an action taken by the officer intended to cause the officer's death is **more than 45 days**, PSOSA requires evidence of **all** the following—

The public safety officer was exposed, while on-duty, to one or more traumatic events, as defined by PSOSA;

The officer took an action that was intended to cause the officer's death;

The officer's action was the direct and proximate cause of the death or permanent and total disability; and

The exposure was a substantial factor in the officer's action.

In claims for disability benefits based on an attempt to die by suicide, the evidence must also show that the disability is both permanent and total, as those terms are defined in the PSOB Act and regulations.

What is a "traumatic event" under PSOSA?

A "traumatic event" is defined in the new law as follows—

(i) a homicide, suicide, or the violent or gruesome death of another individual (including such a death resulting from a mass casualty event, mass fatality event, or mass shooting);

(ii) a harrowing circumstance posing an extraordinary and significant danger or threat to the life of, or of

serious bodily harm to, any individual (including such a circumstance as a mass casualty event, mass fatality event, or mass shooting); or

(iii) an act of criminal sexual violence committed against any individual.

The terms "mass casualty event," "mass shooting," and "mass fatality event" are further defined in the law.

What does "not inconsistent with a psychiatric disorder" mean in PSOSA?

This phrase "not inconsistent with a psychiatric disorder" appears in the following provision:

[T]ook an action within 45 days of the end of exposure, while on duty, to a traumatic event, which action was intended to bring about the officer's death and directly and proximately resulted in such officer's death or permanent and total disability, **if such action was not inconsistent with a psychiatric disorder.**

If the circumstances surrounding the action are later determined to be consistent with the existence of a psychiatric disorder, the action was "not inconsistent with a psychiatric disorder," even if there was no previous diagnosis of a psychiatric disorder.

What is required for an injured public safety officer's post-traumatic stress disorder (PTSD), acute stress disorder (ASD), or trauma and stress related disorders (T/SD) to be presumed to be a "line of duty injury" under PSOSA?

To establish a presumption that a public safety officer's PTSD, ASD, or other T/SD is a "line of duty injury" for PSOB purposes, the law requires evidence of **all** the following—

The public safety officer suffers from PTSD, ASD, or other T/SD;

The public safety officer was exposed, while on-duty, to one or more traumatic events, as defined in PSOSA, and

The public safety officer's on-duty exposure to a traumatic event was a substantial factor in the officer's PTSD, ASD, or other T/SD.

Once a presumptive "line of duty injury" is established under this new provision of the PSOB Act as amended by PSOSA, the provisions of the Act are applied to determine if the officer is eligible for disability benefits.

How is a public safety officer's "exposure" determined under PSOSA?

A public safety officer is "exposed" to a traumatic event if the officer, while on duty—

- (i) directly experiences or witnesses a traumatic event; or
- (ii) is subjected, in an intense way, to aversive consequences of a traumatic event (including a public safety officer collecting human remains).

The PSOB Office will determine whether a public safety officer had qualifying exposure to a traumatic event based on documents (such as incident reports, witness or agency statements, and medical records provided by the claimant and the officer's agency or department) describing the circumstances of the traumatic event and how the public safety officer witnessed, experienced, or was subjected to it.

What is a "substantial factor"?

Under current PSOB regulations, "substantial factor" is defined as:

Substantial factor—A factor substantially brings about a death, injury, disability, wound, [or] condition . . . if—

- (1) The factor alone was sufficient to have caused the death, injury, disability, wound, [or] condition . . . ; or
- (2) No other factor (or combination of factors) contributed to the death, injury, disability, wound, condition, cardiac-event, heart attack, or stroke to so great a degree as it did.

A factor is the "substantial factor" in a public safety officer's condition if the factor is either the greatest contributor in causing the officer's condition or is equal to any other factor or combination of factors.

What if the officer had other life issues, like marital or financial issues—are those considered under PSOSA?

Public safety officers often face difficult events as they protect and serve their communities, and their families witness firsthand the impact of their profession on their home lives. Where the time between a public safety officer's on-duty exposure to a traumatic event and an action taken by the officer intended to cause the officer's death is **more than 45 days**, PSOSA requires evidence, among other things, that the officer's exposure, while on-duty, to a traumatic event(s), was a **substantial factor** in the officer's action to bring about death.

The PSOB Office will review all the claim documents provided to determine whether it is more likely than not that the officer's on-duty exposure to a traumatic event was a substantial factor in the officer's action intended to bring about death. If the information suggests that the greatest contributing factor to the suicide-related action may have been something other than the officer's exposure to the traumatic event, the PSOB Office will request clarification regarding the other factors to make a determination according to the PSOB law and regulations.

If other state or local benefits are approved, will PSOB automatically approve a PSOSA claim?

No. Receipt of benefits from other programs do not determine eligibility for PSOB benefits. Survivors and injured officers must apply for PSOB benefits through the online portal at <https://bjia.ojp.gov/program/psob>. Visit the Benefits page (<https://bjia.ojp.gov/program/psob/benefits>) or watch the [short tutorial video](#) on how to file for PSOB Benefits. Denial of state or local benefits does not constitute ineligibility for PSOB benefits.

If the PSOB benefit is approved, will other state or local benefits be automatically approved?

No. State and local benefits programs have their own legal requirements for eligibility. Approval of PSOB benefits does not necessarily constitute eligibility for state or local benefits.

If the PSOB death benefit is approved, will the fallen officer's name automatically be added to "The Wall" in Washington, DC?

No. The National Law Enforcement Officers Memorial Fund (NLEOMF), a nonprofit organization that is independent of the federal government, built and maintains the memorial in Washington. NLEOMF has its own application and review process. Visit www.nleomf.org for details.

Does PSOSA cover retired first responders?

The PSOB Act, amended by PSOSA, covers injuries sustained by individuals who, at the time of injury, are "public safety officers" as defined in the PSOB Act and regulations. PSOSA requires, among other things, that a deceased or disabled public safety officer's exposure to a traumatic event have occurred while the officer was on duty. If a public safety officer retires after such an on-duty exposure, and all the eligibility requirements are met, a death or catastrophic disability resulting from suicide or attempt to die by suicide—on or after January 1, 2019—could be covered under the new law.

What if the agency does not wish to file its part of the PSOB claim for a death by suicide?

There have been times when public safety agencies have indicated that they do not wish to assist with filing a PSOB claim, whether for a death by suicide or any other injury, as they do not believe that the public safety officer died "in the line of duty." An agency's refusal to assist does not prevent the survivor or injured officer from filing an application or claim for PSOB benefits. Once an application or claim is filed, the PSOB Program will work with the claimant and agency to obtain relevant information to make a determination. If necessary, the PSOB Program may use its authority to issue a subpoena to obtain existing information from the agency.

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