

House BILL NO. 211

INTRODUCED BY

L. Smith
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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A STATE EMPLOYEE WHO IS INJURED BY A CLIENT OR OTHER PERSON UNDER STATE SUPERVISION AS A RESULT OF AGGRESSIVE BEHAVIOR BY THE CLIENT OR PERSON IS ELIGIBLE TO RECEIVE WORKERS' COMPENSATION BENEFITS FROM THE DATE OF THE INJURY; AMENDING SECTION 39-71-736, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-736, MCA, is amended to read:

"**39-71-736. Compensation -- from what date paid.** (1) (a) ~~No~~ Except as provided in subsection (5), compensation may not be paid for the first 48 hours or 6 days' loss of wages, whichever is less, that the claimant is totally disabled and unable to work due to an injury. A claimant is eligible for compensation starting with the 7th day.

(b) However, separate benefits of medical and hospital services must be furnished from the date of injury.

(2) For the purpose of this section, except as provided in subsection (3), an injured worker is not considered to be entitled to compensation benefits if the worker is receiving sick leave benefits, except that each day for which the worker elects to receive sick leave counts 1 day toward the 6-day waiting period.

(3) Augmentation of temporary total disability benefits with sick leave by an employer pursuant to a collective bargaining agreement may not disqualify a worker from receiving temporary total disability benefits.

(4) Receipt of vacation leave by an injured worker may not affect the worker's eligibility for temporary total disability benefits.

(5) An employee of a state agency who is injured by a client or other person under state supervision as a result of aggressive behavior by the client or other person is eligible to receive compensation from the date of the injury."

NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1995.

-END-

- 1 -

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0211, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill providing that a state employee who is injured by a client or other person under state supervision as a result of aggressive behavior by the client or person is eligible to receive workers' compensation benefits from the date of the injury.

ASSUMPTIONS:

1. The State Fund cannot identify state agency claims for which the cause of injury was aggressive behavior in the time frame required for completion of this fiscal note. There were 1456 total claims by state agencies in FY94. Aggressive behavior (however the term might be objectively defined) was probably related to the cause of injury for only a small percentage of claims.
2. Benefit payments would increase to the extent that injuries occur which are caused by aggressive behavior. Premiums charged to state agencies with loss experience related to aggressive behavior would increase commensurately to insure rate adequacy.

FISCAL IMPACT:

The impact on State Fund benefit payments is inestimable but likely to result in a negligible increase. Premium revenue would increase commensurately to insure rate adequacy for the State Fund.

State agency premiums for workers compensation coverage would increase slightly. The Department of Corrections and Human Services and the Department of Family Services would be the agencies most likely to be affected.

TECHNICAL NOTES:

1. There is a potential equal protection issue inherent in this bill insofar as state employees' claims are receiving preference over other claimants under this bill. The legislation may need to establish a rational basis for such preference.

Dave Lewis 1-20-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

LIZ SMITH, PRIMARY SPONSOR DATE

Fiscal Note for HB0211, as introduced

HB 211