

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Oversight, Transparency &
 2 Administration Subcommittee

3 Representative Willhite offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (a) of subsection (2) of section
 8 112.1815, Florida Statutes, is amended, and subsection (5) is
 9 added to that section to read:

10 112.1815 Firefighters, paramedics, emergency medical
 11 technicians, and law enforcement officers; special provisions
 12 for employment-related accidents and injuries.-

13 (2) (a) For the purpose of determining benefits under this
 14 section relating to employment-related accidents and injuries of
 15 first responders, the following shall apply:

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16 1. An injury or disease caused by the exposure to a toxic
17 substance is not an injury by accident arising out of employment
18 unless there is a preponderance of the evidence establishing
19 that exposure to the specific substance involved, at the levels
20 to which the first responder was exposed, can cause the injury
21 or disease sustained by the employee.

22 2. Any adverse result or complication caused by a smallpox
23 vaccination of a first responder is deemed to be an injury by
24 accident arising out of work performed in the course and scope
25 of employment.

26 3. A mental or nervous injury involving a first responder
27 and occurring as a manifestation of a compensable injury must be
28 demonstrated by clear and convincing evidence. ~~For a mental or~~
29 ~~nervous injury arising out of the employment unaccompanied by a~~
30 ~~physical injury involving a first responder, only medical~~
31 ~~benefits under s. 440.13 shall be payable for the mental or~~
32 ~~nervous injury. However, payment of indemnity as provided in s.~~
33 ~~440.15 may not be made unless a physical injury arising out of~~
34 ~~injury as a first responder accompanies the mental or nervous~~
35 ~~injury.~~ Benefits for a first responder are not subject to any
36 limitation on temporary benefits under s. 440.093 or the 1-
37 percent limitation on permanent psychiatric impairment benefits
38 under s. 440.15(3)(c).

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39 (5) An employing agency of a first responder must provide
40 educational training related to mental health awareness,
41 prevention, mitigation, and treatment.

42 Section 2. Section 440.093, Florida Statutes, is amended
43 to read:

44 440.093 Mental and nervous injuries.-

45 (1) Except as provided in subsection (4) and (5):

46 (a) A mental or nervous injury due to stress, fright, or
47 excitement only is not an injury by accident arising out of the
48 employment.

49 (b) ~~Nothing in~~ This section may not shall be construed to
50 allow for the payment of benefits under this chapter for mental
51 or nervous injuries without an accompanying physical injury
52 requiring medical treatment.

53 (c) A physical injury resulting from mental or nervous
54 injuries unaccompanied by physical trauma requiring medical
55 treatment is shall not be compensable under this chapter.

56 (2) Mental or nervous injuries occurring as a
57 manifestation of an injury compensable under this chapter shall
58 be demonstrated by clear and convincing medical evidence by a
59 licensed psychiatrist meeting criteria established in the Fifth
60 ~~most recent~~ Edition of the Diagnostic and Statistical Manual of
61 Mental Disorders published by the American Psychiatric
62 Association. Except as provided in subsections (4) and (5), the
63 compensable physical injury must be and remain the major

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64 contributing cause of the mental or nervous condition and the
65 compensable physical injury as determined by reasonable medical
66 certainty must be at least 50 percent responsible for the mental
67 or nervous condition as compared to all other contributing
68 causes combined. Compensation is not payable for the mental,
69 psychological, or emotional injury arising out of depression
70 from being out of work or losing employment opportunities,
71 resulting from a preexisting mental, psychological, or emotional
72 condition or due to pain or other subjective complaints that
73 cannot be substantiated by objective, relevant medical findings.

74 (3) Subject to the payment of permanent benefits under s.
75 440.15, in no event shall temporary benefits for a compensable
76 mental or nervous injury be paid for more than 6 months after
77 the date of maximum medical improvement for the injured
78 employee's physical injury or injuries, which shall be included
79 in the period of 104 weeks as provided in s. 440.15(2) and (4).
80 Mental or nervous injuries are compensable only in accordance
81 with the terms of this section.

82 (4) A law enforcement officer, firefighter, emergency
83 medical technician, or paramedic who entered service before July
84 1, 2018, is entitled to receive benefits under this chapter for
85 a mental or nervous injury, whether or not such injury is
86 accompanied by a physical injury requiring medical treatment,
87 if:

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88 (a) The mental or nervous injury resulted from the law
89 enforcement officer, firefighter, emergency medical technician,
90 or paramedic acting within the course of his or her employment
91 as described in s. 440.091 and the law enforcement officer,
92 firefighter, emergency medical technician, or paramedic
93 witnessed a murder, suicide, fatal injury, child death, or mass
94 killing as defined in 28 U.S.C. s. 530C, or treated or
95 transported a deceased child or the victim of a murder, suicide,
96 or fatal injury; and

97 (b) The mental or nervous injury is demonstrated by clear
98 and convincing medical evidence by a licensed psychiatrist to
99 meet the criteria for posttraumatic stress disorder as described
100 in the Diagnostic and Statistical Manual of Mental Disorders,
101 Fifth Edition, published by the American Psychiatric Association
102 and the diagnosis must have occurred within two years of when
103 the law enforcement officer, firefighter, emergency medical
104 technician, or paramedic witnessed a murder, suicide, fatal
105 injury, child death, or mass killing, or treated or transported
106 a deceased child or the victim of a murder, suicide, or fatal
107 injury.

108 (5) A law enforcement officer, firefighter, emergency
109 medical technician, or paramedic who entered service on or after
110 July 1, 2018, is entitled to receive benefits under this chapter
111 for a mental or nervous injury, whether or not such injury is

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112 accompanied by a physical injury requiring medical treatment,
113 if:

114 (a) The law enforcement officer, firefighter, emergency
115 medical technician, or paramedic successfully passes a pre-
116 employment mental health examination, which failed to reveal any
117 diagnosis of posttraumatic stress disorder. However, this
118 subsection does not apply if the prospective employer fails to
119 provide the pre-employment mental health examination;

120 (b) The mental or nervous injury resulted from the law
121 enforcement officer, firefighter, emergency medical technician,
122 or paramedic acting within the course of his or her employment
123 as described in s. 440.091 and the law enforcement officer,
124 firefighter, emergency medical technician, or paramedic
125 witnessed a murder, suicide, fatal injury, child death, or mass
126 killing as defined in 28 U.S.C. s. 530C, or treated or
127 transported a deceased child or the victim of a murder, suicide,
128 or fatal injury; and

129 (c) The mental or nervous injury is demonstrated by clear
130 and convincing medical evidence by a licensed psychiatrist to
131 meet the criteria for posttraumatic stress disorder as described
132 in the Diagnostic and Statistical Manual of Mental Disorders,
133 Fifth Edition, published by the American Psychiatric Association
134 and the diagnosis must have occurred within two years of when
135 the law enforcement officer, firefighter, emergency medical
136 technician, or paramedic witnessed a murder, suicide, fatal

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137 injury, child death, or mass killing, or treated or transported
138 a deceased child or the victim of a murder, suicide, or fatal
139 injury.

140 (6) A law enforcement officer, firefighter, emergency
141 medical technician, or paramedic is not entitled to benefits
142 under subsection (4) or (5) if a claim for benefits is not made
143 prior to or within 180 days after leaving employment with the
144 employing agency.

145 Section 3. This act shall take effect July 1, 2018.

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148 **T I T L E A M E N D M E N T**

149 Remove everything before the enacting clause and insert:
150 An act relating to workers' compensation benefits for first
151 responders; amending s. 112.1815, F.S.; deleting certain
152 limitations relating to workers' compensation benefits for
153 first responders; requiring employers to provide certain
154 education training; amending s. 440.093, F.S.; providing
155 that law enforcement officers, firefighters, emergency
156 medical technicians, and paramedics are entitled to
157 benefits under the Workers' Compensation Law for mental or
158 nervous injuries, whether or not such injuries are
159 accompanied by physical injuries requiring medical
160 treatment, under specified circumstances; providing an
161 effective date.