

By Senator Book

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1 A bill to be entitled
2 An act relating to workers' compensation benefits for
3 first responders; amending s. 112.1815, F.S.; deleting
4 certain limitations relating to workers' compensation
5 benefits for first responders; amending s. 440.093,
6 F.S.; providing that law enforcement officers,
7 firefighters, emergency medical technicians, and
8 paramedics are entitled to benefits under the Workers'
9 Compensation Law for mental or nervous injuries,
10 whether or not such injuries are accompanied by
11 physical injuries requiring medical treatment, under
12 specified circumstances; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Paragraph (a) of subsection (2) of section
17 112.1815, Florida Statutes, is amended to read:

18 112.1815 Firefighters, paramedics, emergency medical
19 technicians, and law enforcement officers; special provisions
20 for employment-related accidents and injuries.—

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

24 1. An injury or disease caused by the exposure to a toxic
25 substance is not an injury by accident arising out of employment
26 unless there is a preponderance of the evidence establishing
27 that exposure to the specific substance involved, at the levels
28 to which the first responder was exposed, can cause the injury
29 or disease sustained by the employee.

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

34 3. A mental or nervous injury involving a first responder
35 and occurring as a manifestation of a compensable injury must be
36 demonstrated by clear and convincing evidence. ~~For a mental or~~
37 ~~nervous injury arising out of the employment unaccompanied by a~~
38 ~~physical injury involving a first responder, only medical~~
39 ~~benefits under s. 440.13 shall be payable for the mental or~~
40 ~~nervous injury. However, payment of indemnity as provided in s.~~
41 ~~440.15 may not be made unless a physical injury arising out of~~
42 ~~injury as a first responder accompanies the mental or nervous~~
43 ~~injury.~~ Benefits for a first responder are not subject to any
44 limitation on temporary benefits under s. 440.093 or the 1-
45 percent limitation on permanent psychiatric impairment benefits
46 under s. 440.15(3)(c).

47 Section 2. Section 440.093, Florida Statutes, is amended to
48 read:

49 440.093 Mental and nervous injuries.—

50 (1) Except as provided in subsection (4):

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

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

58 (c) A physical injury resulting from mental or nervous

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59 injuries unaccompanied by physical trauma requiring medical
60 treatment is ~~shall~~ not be compensable under this chapter.

61 (2) Mental or nervous injuries occurring as a manifestation
62 of an injury compensable under this chapter shall be
63 demonstrated by clear and convincing medical evidence by a
64 licensed psychiatrist meeting criteria established in the most
65 recent edition of the Diagnostic and Statistical Manual of
66 Mental Disorders published by the American Psychiatric
67 Association. Except as provided in subsection (4), the
68 compensable physical injury must be and remain the major
69 contributing cause of the mental or nervous condition and the
70 compensable physical injury as determined by reasonable medical
71 certainty must be at least 50 percent responsible for the mental
72 or nervous condition as compared to all other contributing
73 causes combined. Compensation is not payable for the mental,
74 psychological, or emotional injury arising out of depression
75 from being out of work or losing employment opportunities,
76 resulting from a preexisting mental, psychological, or emotional
77 condition or due to pain or other subjective complaints that
78 cannot be substantiated by objective, relevant medical findings.

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

87 (4) A law enforcement officer, firefighter, emergency

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88 medical technician, or paramedic is entitled to receive benefits
89 under this chapter for a mental or nervous injury, whether or
90 not such injury is accompanied by a physical injury requiring
91 medical treatment, if:

92 (a) The mental or nervous injury resulted while the law
93 enforcement officer, firefighter, emergency medical technician,
94 or paramedic was acting within the course of his or her
95 employment as described in s. 440.091 and the law enforcement
96 officer, firefighter, emergency medical technician, or paramedic
97 witnessed a murder, suicide, fatal injury, or child death or
98 arrived on a scene where mass casualties were suffered;

99 (b) The law enforcement officer, firefighter, emergency
100 medical technician, or paramedic begins mental health treatment
101 within 15 days after the incident in paragraph (a) giving rise
102 to the mental or nervous injury that occurred; and

103 (c) The mental or nervous injury is demonstrated by clear
104 and convincing medical evidence by a licensed psychiatrist to
105 meet the criteria for posttraumatic stress disorder as described
106 in the most recent edition of the Diagnostic and Statistical
107 Manual of Mental Disorders published by the American Psychiatric
108 Association.

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