

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; requiring employers to
6 provide certain education training; amending s.
7 440.093, F.S.; providing that law enforcement
8 officers, firefighters, emergency medical technicians,
9 and paramedics are entitled to benefits under the
10 Workers' Compensation Law for mental or nervous
11 injuries, whether or not such injuries are accompanied
12 by physical injuries requiring medical treatment,
13 under specified circumstances; providing an effective
14 date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (a) of subsection (2) of section
19 112.1815, Florida Statutes, is amended, and subsection (5) is
20 added to that section to read:

21 112.1815 Firefighters, paramedics, emergency medical
22 technicians, and law enforcement officers; special provisions
23 for employment-related accidents and injuries.—

24 (2) (a) For the purpose of determining benefits under this
25 section relating to employment-related accidents and injuries of

26 first responders, the following shall apply:

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

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

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

50 (5) An employing agency of a first responder must provide

51 educational training related to mental health awareness,
 52 prevention, mitigation, and treatment.

53 Section 2. Section 440.093, Florida Statutes, is amended
 54 to read:

55 440.093 Mental and nervous injuries.—

56 (1) Except as provided in subsections (4) and (5):

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

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

64 (c) A physical injury resulting from mental or nervous
 65 injuries unaccompanied by physical trauma requiring medical
 66 treatment is ~~shall~~ not be compensable under this chapter.

67 (2) Mental or nervous injuries occurring as a
 68 manifestation of an injury compensable under this chapter shall
 69 be demonstrated by clear and convincing medical evidence by a
 70 licensed psychiatrist meeting criteria established in the Fifth
 71 Edition ~~most recent edition~~ of the Diagnostic and Statistical
 72 Manual of Mental Disorders published by the American Psychiatric
 73 Association. Except as provided in subsections (4) and (5), the
 74 compensable physical injury must be and remain the major
 75 contributing cause of the mental or nervous condition and the

76 | compensable physical injury as determined by reasonable medical
77 | certainty must be at least 50 percent responsible for the mental
78 | or nervous condition as compared to all other contributing
79 | causes combined. Compensation is not payable for the mental,
80 | psychological, or emotional injury arising out of depression
81 | from being out of work or losing employment opportunities,
82 | resulting from a preexisting mental, psychological, or emotional
83 | condition or due to pain or other subjective complaints that
84 | cannot be substantiated by objective, relevant medical findings.

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

93 | (4) A law enforcement officer, firefighter, emergency
94 | medical technician, or paramedic who entered service before July
95 | 1, 2018, is entitled to receive benefits under this chapter for
96 | a mental or nervous injury, whether or not such injury is
97 | accompanied by a physical injury requiring medical treatment,
98 | if:

99 | (a) The mental or nervous injury resulted from the law
100 | enforcement officer, firefighter, emergency medical technician,

101 or paramedic acting within the course of his or her employment
102 as described in s. 440.091 and the law enforcement officer,
103 firefighter, emergency medical technician, or paramedic
104 witnessed a murder, suicide, fatal injury, child death, or mass
105 killing as defined in 28 U.S.C. s. 530C, or treated or
106 transported a deceased child or the victim of a murder, suicide,
107 or fatal injury; and

108 (b) The mental or nervous injury is demonstrated by clear
109 and convincing medical evidence by a licensed psychiatrist to
110 meet the criteria for posttraumatic stress disorder as described
111 in the Diagnostic and Statistical Manual of Mental Disorders,
112 Fifth Edition, published by the American Psychiatric Association
113 and the diagnosis is made within 2 years of when the law
114 enforcement officer, firefighter, emergency medical technician,
115 or paramedic witnessed a murder, suicide, fatal injury, child
116 death, or mass killing as defined in 28 U.S.C. s. 530C, or
117 treated or transported a deceased child or the victim of a
118 murder, suicide, or fatal injury.

119 (5) A law enforcement officer, firefighter, emergency
120 medical technician, or paramedic who enters service on or after
121 July 1, 2018, is entitled to receive benefits under this chapter
122 for a mental or nervous injury, whether or not such injury is
123 accompanied by a physical injury requiring medical treatment,
124 if:

125 (a) The law enforcement officer, firefighter, emergency

126 medical technician, or paramedic successfully passes a pre-
127 employment mental health examination, which fails to reveal any
128 diagnosis of posttraumatic stress disorder. However, this
129 paragraph does not apply if the prospective employer fails to
130 provide the pre-employment mental health examination;

131 (b) The mental or nervous injury resulted from the law
132 enforcement officer, firefighter, emergency medical technician,
133 or paramedic acting within the course of his or her employment
134 as described in s. 440.091 and the law enforcement officer,
135 firefighter, emergency medical technician, or paramedic
136 witnessed a murder, suicide, fatal injury, child death, or mass
137 killing as defined in 28 U.S.C. s. 530C, or treated or
138 transported a deceased child or the victim of a murder, suicide,
139 or fatal injury; and

140 (c) The mental or nervous injury is demonstrated by clear
141 and convincing medical evidence by a licensed psychiatrist to
142 meet the criteria for posttraumatic stress disorder as described
143 in the Diagnostic and Statistical Manual of Mental Disorders,
144 Fifth Edition, published by the American Psychiatric Association
145 and the diagnosis is made within 2 years of when the law
146 enforcement officer, firefighter, emergency medical technician,
147 or paramedic witnessed a murder, suicide, fatal injury, child
148 death, or mass killing as defined in 28 U.S.C. s. 530C, or
149 treated or transported a deceased child or the victim of a
150 murder, suicide, or fatal injury.

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

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