A bill to be entitled

An act relating to workers’ compensation benefits for first responders; amending s. 112.1815, F.S.; revising the evidentiary standard for demonstrating mental and nervous injuries of first responders; deleting certain limitations relating to workers’ compensation benefits for first responders; amending s. 440.093, F.S.; providing that law enforcement officers, firefighters, emergency medical technicians, and paramedics are entitled to benefits under the Workers’ Compensation Law for mental or nervous injuries, regardless of whether such injuries are accompanied by physical injuries requiring medical treatment, under specified circumstances; conforming provisions to changes made by the act; providing an effective date.

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

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

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

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

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

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

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

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

440.093 Mental and nervous injuries.—
(1) Except as provided in subsection (4):
(a) A mental or nervous injury due to stress, fright, or
excitement only is not an injury by accident arising out of the
employment.
(b) Nothing in this section may not shall be construed to
allow for the payment of benefits under this chapter for mental
or nervous injuries without an accompanying physical injury requiring medical treatment.

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

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

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

(4) A law enforcement officer, a firefighter, an emergency
medical technician, or a paramedic is entitled to receive
benefits under this chapter for a mental or nervous injury,
whether or not such injury is accompanied by a physical injury
requiring medical treatment, if:

(a) The mental or nervous injury resulted while the law
enforcement officer, firefighter, emergency medical technician,
or paramedic was acting within the course of his or her
employment as described in s. 440.091 and the law enforcement
officer, firefighter, emergency medical technician, or paramedic
witnessed, or arrived at the scene of, a murder, suicide, fatal
injury, child death, or mass casualty incident; and

(b) The mental or nervous injury is demonstrated by a
preponderance of the evidence by a licensed psychiatrist to meet
the criteria for posttraumatic stress disorder as described in
the Diagnostic and Statistical Manual of Mental Disorders, Fifth

Section 3. This act shall take effect October 1, 2018.