

By the Committee on Banking and Insurance; and Senators Book, Latvala, Taddeo, and Montford

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

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

18  
19 Section 1. Paragraph (a) of subsection (2) of section  
20 112.1815, Florida Statutes, is amended 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

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

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

52 440.093 Mental and nervous injuries.—

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

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

57 (b) ~~Nothing in~~ This section may not shall be construed to  
58 allow for the payment of benefits under this chapter for mental

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59 or nervous injuries without an accompanying physical injury  
60 requiring medical treatment.

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

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

83 (3) Subject to the payment of permanent benefits under s.  
84 440.15, in no event shall temporary benefits for a compensable  
85 mental or nervous injury be paid for more than 6 months after  
86 the date of maximum medical improvement for the injured  
87 employee's physical injury or injuries, which shall be included

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88 in the period of 104 weeks as provided in s. 440.15(2) and (4).  
89 Mental or nervous injuries are compensable only in accordance  
90 with the terms of this section.

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

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

103 (b) The mental or nervous injury is demonstrated by a  
104 preponderance of the evidence by a licensed psychiatrist to meet  
105 the criteria for posttraumatic stress disorder as described in  
106 the Diagnostic and Statistical Manual of Mental Disorders, Fifth  
107 Edition, published by the American Psychiatric Association.

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