

By Senator Torres

15-01438-19

20191240__

1 A bill to be entitled
2 An act relating to workers' compensation benefits for
3 correctional officers; creating s. 112.1816, F.S.;
4 providing definitions; providing that, under certain
5 circumstances, posttraumatic stress disorder suffered
6 by a correctional officer is an occupational disease
7 compensable by workers' compensation benefits;
8 specifying that certain benefits do not require a
9 physical injury and are not subject to certain
10 apportionment or limitations; providing a time for
11 notice of injury or death; requiring the Department of
12 Financial Services to adopt certain rules; requiring
13 an employing agency to provide specified mental health
14 training; providing a declaration of important state
15 interest; providing an effective date.

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

18
19 Section 1. Section 112.1816, Florida Statutes, is created
20 to read:

21 112.1816 Correctional officers; special provision for
22 posttraumatic stress disorder.-

23 (1) As used in this section, the term:

24 (a) "Correctional officer" includes correctional officers
25 and correctional probation officers as those terms are defined
26 in s. 943.10(2) and (3), respectively.

27 (b) "Directly witnessing" means to see or hear for oneself.

28 (2) For purposes of chapter 440 and notwithstanding ss.
29 440.093 and 440.151(2), posttraumatic stress disorder, as

15-01438-19

20191240__

30 described in the Diagnostic and Statistical Manual of Mental
31 Disorders, Fifth Edition, published by the American Psychiatric
32 Association, suffered by a correctional officer is a compensable
33 occupational disease within the meaning of s. 440.151 if:

34 (a) The correctional officer was discharging his or her
35 primary work responsibilities in a place and under circumstances
36 reasonably consistent with those responsibilities and was
37 covered by the employer's workers' compensation coverage;

38 (b) The correctional officer is examined and subsequently
39 diagnosed with such disorder by a licensed psychiatrist who is
40 an authorized treating physician as provided in chapter 440 due
41 to one of the following events:

42 1. Seeing for oneself a deceased minor;

43 2. Directly witnessing the death of a minor;

44 3. Directly witnessing, or participating in the physical
45 treatment of, an injury to a minor who subsequently died before
46 or upon arrival at a hospital emergency department;

47 4. Seeing for oneself a decedent whose death involved
48 grievous bodily harm of a nature that shocks the conscience;

49 5. Directly witnessing a death, including homicide or
50 suicide, which involved grievous bodily harm of a nature that
51 shocks the conscience; or

52 6. Directly witnessing, or participating in the physical
53 treatment of, an injury, including an attempted suicide, to a
54 person who subsequently died before or upon arrival at a
55 hospital emergency department if the person was injured by
56 grievous bodily harm of a nature that shocks the conscience; and

57 (c) Such disorder is demonstrated by clear and convincing
58 evidence.

15-01438-19

20191240__

59 (3) Benefits for a correctional officer under this section:

60 (a) Do not require a physical injury to the correctional
61 officer; and

62 (b) Are not subject to:

63 1. Apportionment due to a preexisting posttraumatic stress
64 disorder;

65 2. Any limitation on temporary benefits under s. 440.093;
66 or

67 3. The 1-percent limitation on permanent psychiatric
68 impairment benefits under s. 440.15(3).

69 (4) The time for notice of injury or death in cases of
70 compensable posttraumatic stress disorder under this section is
71 the same as in s. 440.151(6) and is measured from one of the
72 qualifying events listed in paragraph (2) (b) or the
73 manifestation of the disorder, whichever occurs later. A claim
74 under this section must be properly noticed within 52 weeks
75 after the qualifying event.

76 (5) The Department of Financial Services shall adopt rules
77 specifying injuries qualifying as grievous bodily harm of a
78 nature that shocks the conscience for purposes of this section.

79 (6) An employing agency of a correctional officer must
80 provide educational training related to mental health awareness,
81 prevention, mitigation, and treatment.

82 Section 2. The Legislature determines and declares that
83 this act fulfills an important state interest.

84 Section 3. This act shall take effect October 1, 2019.