

1 A bill to be entitled

2 An act relating to licensed counseling for first  
3 responders; amending s. 112.1815, F.S.; providing  
4 definitions; requiring an employing agency of a first  
5 responder to pay for certain licensed counseling for  
6 first responders; requiring such counseling to be  
7 completed within a specified timeframe; prohibiting  
8 the employing agency from requiring the first  
9 responder to use specified leave for such counseling  
10 under certain circumstances; authorizing a first  
11 responder to select a qualified professional for  
12 licensed counseling unless a specified list of  
13 approved qualified professionals exists and providing  
14 requirements for the employing agency related thereto;  
15 prohibiting payment by the employing agency for such  
16 counseling from creating a presumption of a  
17 compensable occupational disease; prohibiting the  
18 employing agency of a first responder from accessing  
19 the first responder's medical records resulting from  
20 licensed counseling except under certain  
21 circumstances; conforming provisions to changes made  
22 by the act; amending s. 112.18155, F.S.; conforming  
23 cross-references; providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
 27 Section 1. Subsections (5) and (6) of section 112.1815,  
 28 Florida Statutes, are renumbered as subsections (4) and (5),  
 29 respectively, subsection (1), present subsection (4), and  
 30 paragraph (a) of present subsection (5) are amended, and a new  
 31 subsection (6) is added to that section, to read:

32 112.1815 Firefighters, paramedics, emergency medical  
 33 technicians, and law enforcement officers; special provisions  
 34 for employment-related accidents and injuries.—

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

36 (a) "Directly witnessing" means to see or hear for  
 37 oneself.

38 (b) "First responder" ~~as used in this section~~ means a law  
 39 enforcement officer as defined in s. 943.10, a firefighter as  
 40 defined in s. 633.102, or an emergency medical technician or  
 41 paramedic as defined in s. 401.23 employed by state or local  
 42 government. A volunteer law enforcement officer, firefighter, or  
 43 emergency medical technician or paramedic engaged by the state  
 44 or a local government is also considered a first responder of  
 45 the state or local government for purposes of this section.

46 (c) "Licensed counseling" means counseling provided by a  
 47 qualified professional.

48 (d) "Manually transporting" means to perform physical  
 49 labor to remove the body of a wounded person for his or her  
 50 safety or medical treatment.

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51 (e) "Minor" has the same meaning as in s. 1.01(13).

52 (f) "Occupational disease" means only a disease that  
53 arises out of employment as a first responder and is due to  
54 causes and conditions that are characteristic of and peculiar to  
55 a particular trade, occupation, process, or employment and  
56 excludes all ordinary diseases of life to which the general  
57 public is exposed, unless the incidence of the disease is  
58 substantially higher in the particular trade, occupation,  
59 process, or employment than for the general public.

60 (g) "Qualified professional" means a physician or a  
61 physician assistant licensed under chapter 458 or chapter 459; a  
62 psychiatrist licensed under chapter 458 or chapter 459; a  
63 psychologist as defined in s. 490.003; a psychiatric nurse as  
64 defined in s. 394.455; or a licensed psychiatrist, a licensed  
65 psychologist, a clinical social worker licensed under s.  
66 491.005, or an advanced practice registered nurse licensed under  
67 s. 464.012 agreed upon through collective bargaining.

68 ~~(4) For the purposes of this section, the term~~  
69 ~~"occupational disease" means only a disease that arises out of~~  
70 ~~employment as a first responder and is due to causes and~~  
71 ~~conditions that are characteristic of and peculiar to a~~  
72 ~~particular trade, occupation, process, or employment and~~  
73 ~~excludes all ordinary diseases of life to which the general~~  
74 ~~public is exposed, unless the incidence of the disease is~~  
75 ~~substantially higher in the particular trade, occupation,~~

76 ~~process, or employment than for the general public.~~

77 (4) (a) ~~(5) (a)~~ For the purposes of this section and chapter  
 78 440, and notwithstanding sub-subparagraph (2) (a) 3. and ss.  
 79 440.093 and 440.151(2), posttraumatic stress disorder, as  
 80 described in the Diagnostic and Statistical Manual of Mental  
 81 Disorders, Fifth Edition, published by the American Psychiatric  
 82 Association, suffered by a first responder is a compensable  
 83 occupational disease as defined in subsection (1) and s.  
 84 440.151(2) ~~within the meaning of subsection (4) and s. 440.151~~  
 85 if:

86 1. The posttraumatic stress disorder resulted from the  
 87 first responder acting within the course of his or her  
 88 employment as provided in s. 440.091; and

89 2. The first responder is examined and subsequently  
 90 diagnosed with such disorder by a qualified professional  
 91 ~~licensed psychiatrist~~, in person or through telehealth as ~~that~~  
 92 ~~term is~~ defined in s. 456.47, who is an authorized treating  
 93 physician as provided in chapter 440 due to one of the following  
 94 events:

- 95 a. Seeing for oneself a deceased minor;
- 96 b. Directly witnessing the death of a minor;
- 97 c. Directly witnessing an injury to a minor who  
 98 subsequently died before or upon arrival at a hospital emergency  
 99 department;
- 100 d. Participating in the physical treatment of an injured

101 | minor who subsequently died before or upon arrival at a hospital  
 102 | emergency department;

103 |       e. Manually transporting an injured minor who subsequently  
 104 | died before or upon arrival at a hospital emergency department;

105 |       f. Seeing for oneself a decedent whose death involved  
 106 | grievous bodily harm of a nature that shocks the conscience;

107 |       g. Directly witnessing a death, including suicide, that  
 108 | involved grievous bodily harm of a nature that shocks the  
 109 | conscience;

110 |       h. Directly witnessing a homicide regardless of whether  
 111 | the homicide was criminal or excusable, including murder, mass  
 112 | killing as defined in 28 U.S.C. s. 530C, manslaughter, self-  
 113 | defense, misadventure, and negligence;

114 |       i. Directly witnessing an injury, including an attempted  
 115 | suicide, to a person who subsequently died before or upon  
 116 | arrival at a hospital emergency department if the person was  
 117 | injured by grievous bodily harm of a nature that shocks the  
 118 | conscience;

119 |       j. Participating in the physical treatment of an injury,  
 120 | including an attempted suicide, to a person who subsequently  
 121 | died before or upon arrival at a hospital emergency department  
 122 | if the person was injured by grievous bodily harm of a nature  
 123 | that shocks the conscience; or

124 |       k. Manually transporting a person who was injured,  
 125 | including by attempted suicide, and subsequently died before or

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126 upon arrival at a hospital emergency department if the person  
127 was injured by grievous bodily harm of a nature that shocks the  
128 conscience.

129 (6) (a) An employing agency of first responders, including  
130 volunteer first responders, must pay for up to 12 hours of  
131 licensed counseling for a first responder who experiences an  
132 event listed in subparagraph (4) (a)2. in the course of his or  
133 her employment. The licensed counseling may be in person or via  
134 telehealth in accordance with s. 456.47.

135 (b) If a qualified professional determines that the first  
136 responder needs additional hours of licensed counseling beyond  
137 the initial 12 hours and that the additional hours of licensed  
138 counseling are likely to improve the first responder's  
139 condition, the employing agency of the first responder must pay  
140 for up to an additional 24 hours of licensed counseling for the  
141 first responder.

142 (c) All hours of licensed counseling authorized under  
143 paragraphs (a) and (b) must be completed within 1 year after the  
144 first responder's first visit to a qualified professional.

145 (d) The employing agency of the first responder may not  
146 require the first responder to use any type of his or her  
147 accrued leave if the first responder's licensed counseling is  
148 scheduled during the first responder's regular work hours.

149 (e) Unless a list of approved qualified professionals has  
150 been established through collective bargaining, a first

151 responder may select a qualified professional to provide  
152 licensed counseling under this subsection. However, if the  
153 qualified professional selected by the first responder declines  
154 to provide such counseling, the employing agency of the first  
155 responder is not required to secure the counseling services of  
156 that qualified professional and must provide a list of other  
157 approved qualified professionals to the first responder. A  
158 qualified professional approved by an employing agency or  
159 through collective bargaining to provide licensed counseling  
160 under this subsection is considered an authorized treating  
161 physician as provided in chapter 440 and is able to satisfy the  
162 diagnosis requirements under subparagraph (4) (a)2. regardless of  
163 whether such qualified professional is a licensed psychiatrist.

164 (f) Payment by the employing agency of licensed counseling  
165 for the first responder under this subsection does not create a  
166 presumption that the first responder suffered a compensable  
167 occupational disease as defined in subsection (1) and s.  
168 440.151(2).

169 (g) The employing agency of the first responder may not  
170 access any of the first responder's medical records resulting  
171 from licensed counseling provided under this subsection unless  
172 the first responder provides written authorization to allow such  
173 access, including a release as part of a claim for workers'  
174 compensation benefits under chapter 440, to the qualified  
175 professional providing services to the first responder pursuant

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176 | to this subsection.

177 |       Section 2. Paragraphs (b) and (c) of subsection (1) of  
178 | section 112.18155, Florida Statutes, are amended to read:

179 |       112.18155 Correctional officers; special provisions for  
180 | posttraumatic stress disorders.—

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

182 |       (b) "Directly witnessing" has the same meaning as in s.  
183 | 112.1815(1) ~~s. 112.1815(5)(e)~~.

184 |       (c) "Manually transporting" has the same meaning as in s.  
185 | 112.1815(1) ~~s. 112.1815(5)(e)~~.

186 |       Section 3. This act shall take effect July 1, 2024.