

CHAPTER 2018-124

Committee Substitute for Committee Substitute for Senate Bill No. 376

An act relating to workers' compensation benefits for first responders; amending s. 112.1815, F.S.; providing that, under certain circumstances, posttraumatic stress disorder suffered by a first responder is an occupational disease compensable by workers' compensation benefits; specifying the evidentiary standard for demonstrating such disorder; specifying that benefits do not require a physical injury and are not subject to certain apportionment or limitations; providing a time for notice of injury or death; providing definitions; requiring the Department of Financial Services to adopt certain rules; requiring an employing agency to provide specified mental health training; providing a declaration of important state interest; providing an effective date.

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

Section 1. Subsections (5) and (6) are added to section 112.1815, Florida Statutes, to read:

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

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

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

2. The first responder is examined and subsequently diagnosed with such disorder by a licensed psychiatrist who is an authorized treating physician as provided in chapter 440 due to one of the following events:

- a. Seeing for oneself a deceased minor;
- b. Directly witnessing the death of a minor;
- c. Directly witnessing an injury to a minor who subsequently died before or upon arrival at a hospital emergency department;

d. Participating in the physical treatment of an injured minor who subsequently died before or upon arrival at a hospital emergency department;

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

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

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

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

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

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

k. Manually transporting a person who was injured, including by attempted suicide, and subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience.

(b) Such disorder must be demonstrated by clear and convincing medical evidence.

(c) Benefits for a first responder under this subsection:

1. Do not require a physical injury to the first responder; and

2. Are not subject to:

a. Apportionment due to a preexisting posttraumatic stress disorder;

b. Any limitation on temporary benefits under s. 440.093; or

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

(d) The time for notice of injury or death in cases of compensable posttraumatic stress disorder under this subsection is the same as in s. 440.151(6) and is measured from one of the qualifying events listed in subparagraph (a)2. or the manifestation of the disorder, whichever is later. A

claim under this subsection must be properly noticed within 52 weeks after the qualifying event.

(e) As used in this subsection, the term:

1. “Directly witnessing” means to see or hear for oneself.

2. “Manually transporting” means to perform physical labor to move the body of a wounded person for his or her safety or medical treatment.

3. “Minor” has the same meaning as in s. 1.01(13).

(f) The Department of Financial Services shall adopt rules specifying injuries qualifying as grievous bodily harm of a nature that shocks the conscience for the purposes of this subsection.

(6) An employing agency of a first responder, including volunteer first responders, must provide educational training related to mental health awareness, prevention, mitigation, and treatment.

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

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

Approved by the Governor March 27, 2018.

Filed in Office Secretary of State March 27, 2018.