

An Act

ENROLLED SENATE
BILL NO. 1457

By: Treat, Rosino, Weaver, and
Hall of the Senate

and

Kannady, Harris, Hays, and
Swope of the House

An Act relating to workers' compensation; amending 85A O.S. 2021, Section 13, which relates to mental-health-related injuries; exempting first responders from physical injury requirement for certain claim; providing for computation of benefits for certain persons; providing for temporary pension benefits; imposing limits on total period of disability benefits; providing for award of permanent total disability based upon maximum medical improvement; providing for payment of benefits based on certain injury; imposing time limit on benefits; imposing limit on employer responsibility for certain medical benefits; requiring employer to maintain health insurance coverage under certain circumstance; providing that payment of certain claims be made through certain pool; defining terms; updating statutory references; and providing an effective date.

SUBJECT: Workers' compensation

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85A O.S. 2021, Section 13, is amended to read as follows:

Section 13. A. 1. A mental injury or illness is not a compensable injury unless caused by a physical injury to the employee, and shall not be considered an injury arising out of and in the course and scope of employment or compensable unless demonstrated by a preponderance of the evidence; provided, however, that this physical injury limitation shall not apply to any victim of a crime of violence, a law enforcement officer, paid or volunteer firefighter, or emergency medical technician employed on a full-time basis by a municipality, county, or this state, or a volunteer firefighter, who suffers post-traumatic stress disorder, as defined in subsection E of this section, while responding to an emergency. For the purposes of this section, such employee shall be referred to as a first responder.

2. No mental injury or illness under this section shall be compensable unless it is also diagnosed by a licensed psychiatrist or psychologist and unless the diagnosis of the condition meets the criteria established in the most current issue of the Diagnostic and Statistical Manual of Mental Disorders.

B. 1. Notwithstanding any other provision of ~~this act~~ the Administrative Workers' Compensation Act, where a claim is for mental injury or illness, the employee shall be limited to twenty-six (26) weeks of disability benefits unless it is shown by clear and convincing evidence that benefits should continue for a set period of time, not to exceed a total of fifty-two (52) weeks. If the treating physician is of the opinion that the first responder is temporarily unable to perform his or her job or any alternative work offered by the employer, he or she shall be entitled to receive compensation which is the greater of the weekly benefit provided for in a collective bargaining agreement or according to the policy of the employer, or seventy percent (70%) of the injured employee's average weekly wage, not to exceed the state average weekly wage. If the employee has a temporary pension benefit available at no additional cost to the employee and the benefit is equal to or greater than the temporary award in this system, the employer may elect to exercise the temporary pension benefit. In no event shall disability benefits extend beyond fifty-two (52) weeks.

2. Notwithstanding any other provision of this section, a first responder who receives benefits provided herein for a mental injury or illness not accompanied by a physical injury who, after reaching

maximum medical improvement, is unable to perform the essential functions of his or her employment position and who is not eligible to receive a disability retirement through his or her pension or retirement system shall be eligible to be awarded permanent disability benefits not to exceed Fifty Thousand Dollars (\$50,000.00) as provided for in this act.

3. a. In cases where death results directly from the mental injury or illness within a period of one (1) year, compensation shall be paid to the dependents as provided in other death cases under ~~this act~~ the Administrative Workers' Compensation Act.

b. Death directly or indirectly related to the mental injury or illness occurring one (1) year or more from the incident resulting in the mental injury or illness shall not be a compensable injury.

C. 1. In the event that the Oklahoma Workers' Compensation Commission finds that a first responder has suffered post-traumatic stress disorder not accompanied by a physical injury, the employer shall provide reasonable and necessary medical treatment for such injury, subject to the Oklahoma Workers' Compensation Commission's Fee Schedule, for a period not longer than one (1) year. The employer shall not be responsible for medical treatment in the form of prescription medicine in excess of Ten Thousand Dollars (\$10,000.00).

2. During any period in which a first responder is temporarily unable to perform his or her job, the employer shall pay to maintain health insurance coverage for the first responder, if such health insurance was in effect on the date of the injury.

D. For the purposes of this section, claim payments for volunteer firefighters shall be paid pursuant to the Volunteer Firefighter Group Insurance Pool.

E. For the purposes of this section:

1. "Post-traumatic stress disorder" means an injury or condition in which a first responder has been exposed to a traumatic event and:

- a. has experienced, witnessed, or was confronted with an event that involved actual or threatened death or serious injury, or a threat to the physical integrity of others, and the response involved fear, helplessness, or horror,
- b. the traumatic event is persistently re-experienced in one or more of the following ways:
 - (1) recurrent and intrusive distressing recollections of the event,
 - (2) recurrent distressing dreams,
 - (3) acting or feeling as if the traumatic event was recurring,
 - (4) intense psychological distress at exposure to cues that symbolize an aspect of the traumatic event, or
 - (5) physiological reactivity on exposure to cues that symbolize an aspect of the traumatic event,
- c. persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness such as efforts to avoid thoughts, feelings, or conversations associated with the trauma, markedly diminished interest or participation in significant activities, or a feeling of detachment or estrangement from others,
- d. persistent symptoms of increased arousal such as difficulty falling or staying asleep, irritability or outbursts of anger, difficulty concentrating, or hypervigilance,
- e. the duration of the disturbance is more than one (1) month, and

f. the disturbance causes clinically significant distress or impairment in social, occupational, or other important areas of functioning;

2. "Volunteer firefighter" means a person who is enrolled as a member of a volunteer fire department with two or less salaried firefighters and who serves in such capacity without receiving a regular salary; and

3. "Emergency medical technician" means a person who holds a license as an emergency medical technician, an intermediate or advanced emergency medical technician, or a paramedic, issued by the State Department of Health to perform emergency medical services in accordance with the Oklahoma Emergency Response Systems Development Act and the rules and standards promulgated by the State Commissioner of Health.

SECTION 2. This act shall become effective January 1, 2025.

Passed the Senate the 2nd day of May, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of April, 2024.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____