

<DateSubmitted>

HOUSE OF REPRESENTATIVES  
CONFERENCE COMMITTEE REPORT

Mr. President:  
Mr. Speaker:

The Conference Committee, to which was referred

**HB2398**

By: Hays of the House and Rosino of the Senate

Title: Workers' compensation; first responders; injuries related to mental health; disability benefits;  
effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and  
That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

**SENATE CONFEREES**

Rosino \_\_\_\_\_  
Daniels \_\_\_\_\_  
Treat \_\_\_\_\_  
McCortney \_\_\_\_\_  
Weaver \_\_\_\_\_  
Brooks \_\_\_\_\_

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 2398

By: Hays and West (Josh) of the  
House

7 and

Rosino of the Senate

8  
9  
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to workers' compensation; amending  
12 85A O.S. 2021, Section 13, which relates to certain  
13 injuries related to mental health; providing for  
14 computation of benefits for certain persons;  
15 providing for temporary pension benefits; imposing  
16 limit on total period for disability benefits;  
17 providing for award of permanent total disability  
18 based upon maximum medical improvement; providing for  
19 payment of benefits based on certain injury; imposing  
20 time limit on benefits; imposing limit on employer  
21 responsibility for prescription medicine; defining  
22 terms; providing for transfer of payment for claims  
23 or increased premiums incurred by cities or towns;  
24 prescribing procedures; providing for terminology in  
official publications; and providing an effective  
date.

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:

1 Section 13. A. 1. A mental injury or illness is not a  
2 compensable injury unless caused by a physical injury to the  
3 employee, and shall not be considered an injury arising out of and  
4 in the course and scope of employment or compensable unless  
5 demonstrated by a preponderance of the evidence; provided, however,  
6 that this physical injury limitation shall not apply to any victim  
7 of a crime of violence or to a law enforcement officer, firefighter,  
8 or emergency medical technician on a full-time basis by a  
9 municipality, county, or the State of Oklahoma, or a volunteer  
10 firefighter who suffers post-traumatic stress disorder, as defined  
11 herein, while responding to an emergency. For the purpose of this  
12 section, such employee shall be referred to as a first responder.

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

18 B. 1. Notwithstanding any other provision of this act, where a  
19 claim is for mental injury or illness, the employee shall be limited  
20 to twenty-six (26) weeks of disability benefits unless it is shown  
21 by clear and convincing evidence that benefits should continue for a  
22 set period of time, not to exceed a total of fifty-two (52) weeks.  
23 If the treating physician is of the opinion that the first responder  
24 is temporarily unable to perform his or her job or any alternative

1 work offered by the employer, he or she shall be entitled to receive  
2 compensation which is the greater of the weekly benefit provided for  
3 in a collective bargaining agreement or according to the policy of  
4 the employer, or seventy percent (70%) of the injured employee's  
5 average weekly wage not to exceed the state average weekly wage. If  
6 the employee has a temporary pension benefit available at no  
7 additional cost to the employee and the benefit is equal to or  
8 greater than the temporary award in this system the employer may  
9 elect to exercise the temporary pension benefit. In no event shall  
10 disability benefits extend beyond fifty-two (52) weeks.

11 2. Notwithstanding any other provision of this section, a  
12 person who receives benefits provided herein for a mental injury or  
13 illness not caused by a physical injury who, after reaching maximum  
14 medical improvement, is unable to perform the essential functions of  
15 their employment position and who is not eligible to receive a  
16 disability retirement through their pension or retirement system  
17 shall be eligible to be awarded permanent disability benefits not to  
18 exceed Fifty Thousand Dollars (\$50,000.00) as provided for in this  
19 act.

20 3. a. In cases where death results directly from the mental  
21 injury or illness within a period of one (1) year,  
22 compensation shall be paid the dependents as provided  
23 in other death cases under this act.  
24

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

5           C. 1. In the event the Workers' Compensation Commission finds  
6 that a first responder has suffered post-traumatic stress disorder  
7 not accompanied by a physical injury, as defined herein, the  
8 employer shall provide reasonable and necessary medical treatment  
9 for such injury, subject to the Oklahoma Workers' Compensation Fee  
10 Schedule, for a period of no longer than one (1) year. The employer  
11 shall not be responsible for medical treatment in the form of  
12 prescription medicine in excess of Ten Thousand Dollars  
13 (\$10,000.00).

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

18           D. "Post-traumatic stress disorder", for the purpose of this  
19 section, means an injury or condition in which a first responder has  
20 been exposed to a traumatic event and:

21           1. Has experienced, witnessed, or was confronted with an event  
22 that involved actual or threatened death or serious injury, or a  
23 threat to the physical integrity of others, and the response  
24 involved fear, helplessness, or horror;

1        2. The traumatic event is persistently re-experienced in one or  
2 more of the following ways:

3            a. recurrent and intrusive distressing recollections of  
4            the event,

5            b. recurrent distressing dreams,

6            c. acting or feeling as if the traumatic event were  
7            recurring,

8            d. intense psychological distress at exposure to cues  
9            that symbolize an aspect of the traumatic event, or

10           e. physiological reactivity on exposure to cues that  
11           symbolize an aspect of the traumatic event;

12        3. Persistent avoidance of stimuli associated with the trauma  
13 and numbing of general responsiveness such as efforts to avoid  
14 thoughts, feelings or conversations associated with the trauma,  
15 markedly diminished interest or participation in significant  
16 activities, or a feeling of detachment or estrangement from others;

17        4. Persistent symptoms of increased arousal such as difficulty  
18 falling or staying asleep, irritability or outbursts of anger,  
19 difficulty concentrating, or hypervigilance;

20        5. The duration of the disturbance is more than one (1) month;  
21 and

22        6. The disturbance causes clinically significant distress or  
23 impairment in social, occupational and other important areas of  
24 functioning.

1       E. "Volunteer firefighter", for the purpose of this section,  
2 means a person who is enrolled as a member of a volunteer fire  
3 department with two or less salaried firefighters and who serves in  
4 such capacity without receiving a regular salary.

5       F. "Emergency medical technician", for the purpose of this  
6 section, means a person who holds a license as an emergency medical  
7 technician, an intermediate or advanced emergency medical  
8 technician, or a paramedic, such license issued by the State  
9 Department of Health to perform emergency medical services in  
10 accordance with the Oklahoma Emergency Response Systems Development  
11 Act and the rules and standards promulgated by the State  
12 Commissioner of Health.

13       G. Any city or town in this state that incurs a claim relating  
14 to post-traumatic stress disorder may, at the city or town's option,  
15 transfer the payment of all or any portion of the claim or increased  
16 workers' compensation premiums to the judgment rolls of the  
17 geographic area or areas serviced by the department of the injured  
18 worker and shall be listed on official publications as "First  
19 Responder PTSD".

20       SECTION 2. This act shall become effective January 1, 2024.

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22       59-1-8404           MAH           05/22/23  
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