

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 1457

By: Treat, Rosino, and Weaver
of the Senate

3

and

4

Kannady of the House

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7 [workers' compensation - mental-health related
8 injuries - benefits - insurance coverage - payment -
effective date]

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12 AUTHOR: Add the following House Coauthors: Harris, Hays and Swope

13 AUTHOR: Add the following Senate Coauthor: Hall

14 AMENDMENT NO. 1. Strike the stricken title, enacting clause, and
15 entire bill and insert:

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18 "An Act relating to workers' compensation; amending
19 85A O.S. 2021, Section 13, which relates to mental-
20 health-related injuries; exempting first responders
21 from physical injury requirement for certain claim;
22 providing for computation of benefits for certain
23 persons; providing for temporary pension benefits;
24 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

1 through certain pool; defining terms; updating
2 statutory references; and providing an effective
3 date.

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

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

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

22 2. No mental injury or illness under this section shall be
23 compensable unless it is also diagnosed by a licensed psychiatrist
24 or psychologist and unless the diagnosis of the condition meets the

1 criteria established in the most current issue of the Diagnostic and
2 Statistical Manual of Mental Disorders.

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

21 2. Notwithstanding any other provision of this section, a first
22 responder who receives benefits provided herein for a mental injury
23 or illness not accompanied by a physical injury who, after reaching
24 maximum medical improvement, is unable to perform the essential

1 functions of his or her employment position and who is not eligible
2 to receive a disability retirement through his or her pension or
3 retirement system shall be eligible to be awarded permanent
4 disability benefits not to exceed Fifty Thousand Dollars
5 (\$50,000.00) as provided for in this act.

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

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

15 C. 1. In the event that the Oklahoma Workers' Compensation
16 Commission finds that a first responder has suffered post-traumatic
17 stress disorder not accompanied by a physical injury, the employer
18 shall provide reasonable and necessary medical treatment for such
19 injury, subject to the Oklahoma Workers' Compensation Commission's
20 Fee Schedule, for a period not longer than one (1) year. The
21 employer shall not be responsible for medical treatment in the form
22 of prescription medicine in excess of Ten Thousand Dollars
23 (\$10,000.00).

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

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

8 E. For the purposes of this section:

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

12 a. has experienced, witnessed, or was confronted with an
13 event that involved actual or threatened death or
14 serious injury, or a threat to the physical integrity
15 of others, and the response involved fear,
16 helplessness, or horror,

17 b. the traumatic event is persistently re-experienced in
18 one or more of the following ways:

19 (1) recurrent and intrusive distressing recollections
20 of the event,

21 (2) recurrent distressing dreams,

22 (3) acting or feeling as if the traumatic event was
23 recurring,

1 (4) intense psychological distress at exposure to
2 cues that symbolize an aspect of the traumatic
3 event, or

4 (5) physiological reactivity on exposure to cues that
5 symbolize an aspect of the traumatic event,

6 c. persistent avoidance of stimuli associated with the
7 trauma and numbing of general responsiveness such as
8 efforts to avoid thoughts, feelings, or conversations
9 associated with the trauma, markedly diminished
10 interest or participation in significant activities,
11 or a feeling of detachment or estrangement from
12 others,

13 d. persistent symptoms of increased arousal such as
14 difficulty falling or staying asleep, irritability or
15 outbursts of anger, difficulty concentrating, or
16 hypervigilance,

17 e. the duration of the disturbance is more than one (1)
18 month, and

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

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

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

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

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

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Presiding Officer of the House of
Representatives

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Passed the Senate the ____ day of _____, 2024.

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Presiding Officer of the Senate

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11 SECTION 3. AMENDATORY 85A O.S. 2021, Section 13, is
12 amended to read as follows:

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

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

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

3 2. Notwithstanding any other provision of this section, a first
4 responder who receives benefits provided herein for a mental injury
5 or illness not accompanied by a physical injury who, after reaching
6 maximum medical improvement, is unable to perform the essential
7 functions of his or her employment position and who is not eligible
8 to receive a disability retirement through his or her pension or
9 retirement system shall be eligible to be awarded permanent
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13 injury or illness within a period of one (1) year,
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19 the incident resulting in the mental injury or illness
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22 Commission finds that a first responder has suffered post-traumatic
23 stress disorder not accompanied by a physical injury, the employer
24 shall provide reasonable and necessary medical treatment for such

1 injury, subject to the Oklahoma Workers' Compensation Commission's
2 Fee Schedule, for a period not longer than one (1) year. The
3 employer shall not be responsible for medical treatment in the form
4 of prescription medicine in excess of Ten Thousand Dollars
5 (\$10,000.00).

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

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

13 E. For the purposes of this section:

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

17 a. has experienced, witnessed, or was confronted with an
18 event that involved actual or threatened death or
19 serious injury, or a threat to the physical integrity
20 of others, and the response involved fear,
21 helplessness, or horror,

22 b. the traumatic event is persistently re-experienced in
23 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 were 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

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

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

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

15 SECTION 4. This act shall become effective January 1, 2025.
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1 Passed the Senate the 11th day of March, 2024.

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Presiding Officer of the Senate

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5 Passed the House of Representatives the ____ day of _____,
6 2024.

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Presiding Officer of the House
of Representatives

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