

JAN 17 2025

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§386- Compensation for first responders suffering from post-traumatic stress disorder. (a) Notwithstanding any law to the contrary, a claim of post-traumatic stress disorder suffered by a first responder shall be compensable under this chapter if:

(1) The post-traumatic stress disorder is demonstrated by clear and convincing evidence;

(2) The post-traumatic stress disorder resulted from the first responder acting within the course and scope of the first responder's employment; and

(3) The first responder is examined and subsequently diagnosed with post-traumatic stress disorder by a psychiatrist licensed under chapter 453 or a psychologist, and the psychiatrist or psychologist



1 determines that the post-traumatic stress disorder is
2 due to one or more of the following:

3 (A) Seeing for oneself a deceased minor;

4 (B) Directly witnessing the death of a minor;

5 (C) Directly witnessing an injury to a minor who
6 subsequently died before or upon arrival at a
7 hospital emergency department;

8 (D) Participating in the physical treatment of an
9 injured minor who subsequently died before or
10 upon arrival at a hospital emergency department;

11 (E) Manually transporting an injured minor who
12 subsequently died before or upon arrival at a
13 hospital emergency department;

14 (F) Seeing for oneself a decedent whose death
15 involved grievous bodily harm of a nature that
16 shocks the conscience;

17 (G) Directly witnessing a death, including suicide,
18 that involved grievous bodily harm of a nature
19 that shocks the conscience;



(H) Directly witnessing the killing of one person by another, regardless of whether the act was criminal or excusable, including:

(i) A mass killing as defined in 28 U.S.C. section 530C(b)(1)(M); and

(ii) Murder in the first degree, murder in the second degree, manslaughter, negligent homicide in the first degree, and negligent homicide in the second degree, as those crimes are defined in chapter 707;

(I) Directly witnessing an injury, including by 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 by attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the



1 person was injured by grievous bodily harm of a
2 nature that shocks the conscience; or

3 (K) Manually transporting a person who was injured,
4 including by attempted suicide, and who
5 subsequently died before or upon arrival at a
6 hospital emergency department if the person was
7 injured by grievous bodily harm of a nature that
8 shocks the conscience.

9 (b) Eligibility for benefits for a first responder under
10 this section shall not require a physical injury to the first
11 responder.

12 (c) For the purpose of subsection (a)(2), a first
13 responder is not acting in the course and scope of the first
14 responder's employment if the first responder is:

15 (1) Off duty; or

16 (2) Outside the jurisdiction of the first responder's
17 employer.

18 (d) An agency that employs a first responder, including a
19 first responder who serves as a volunteer, shall provide
20 educational training related to the awareness, prevention,
21 mitigation, and treatment of mental health issues.



1 (e) The director shall adopt rules pursuant to chapter 91
2 that specify the injuries that qualify as grievous bodily harm
3 of a nature that shocks the conscience.

4 (f) If any other part of this chapter conflicts with this
5 section, this section shall control.

6 (g) As used in this section:

7 "Directly witness" means to see or hear for oneself.

8 "Emergency medical attendant" means a person employed by an
9 emergency ambulance service to provide emergency medical
10 services, including emergency medical service personnel who are
11 licensed under part II of chapter 453.

12 "Firefighter" means a person who works for a state or
13 county agency whose principal duties are to prevent and fight
14 fires. "Firefighter" includes a volunteer firefighter as that
15 term is defined in section 386-181(a).

16 "First responder" means:

17 (1) A firefighter;

18 (2) A law enforcement officer;

19 (3) An emergency medical attendant;



1 (4) An emergency dispatcher or call taker who is employed
2 by a law enforcement or public safety agency in the
3 State;

4 (5) A crime scene investigator who is employed by a law
5 enforcement or public safety agency in the State;

6 (6) A forensic investigator who is employed by a law
7 enforcement or public safety agency in the State; or

8 (7) A coroner or medical examiner who is employed by a
9 state or county agency.

10 "Law enforcement officer" means a sheriff or deputy
11 sheriff, a police officer, an enforcement officer within the
12 division of conservation and resources enforcement of the
13 department of land and natural resources, a special agent of the
14 department of the attorney general, and any other public servant
15 vested by law with a duty to maintain public order, make arrests
16 for offenses, or enforce criminal laws, whether that duty
17 extends to all offenses or is limited to a specific class of
18 offenses. "Law enforcement officer" includes police chaplains,
19 reserve police officers, reserve public safety law enforcement
20 officers, sheriffs' chaplains, volunteer boating enforcement



officers, and volunteer conservation and resources enforcement officers as those terms are defined in section 386-181(a).

"Manually transporting" means to perform physical labor to move the body of a wounded person for the wounded person's safety or medical treatment.

"Post-traumatic stress disorder" means post-traumatic stress disorder as described in the Fifth Edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association."

SECTION 2. Section 386-82, Hawaii Revised Statutes, is amended to read as follows:

"§386-82 Claim for compensation; limitation of time. (a)

The right to compensation under this chapter shall be barred unless a written claim therefor is made to the director of labor and industrial relations[+]:[+]

(1) Within two years after the date at which the effects of the injury for which the employee is entitled to compensation have become manifest; and

(2) Within five years after the date of the accident or occurrence which caused the injury.



1 (b) The [~~foregoing~~] limitations of time described in
2 subsection (a) shall not apply to a claim for injury [~~caused~~];

3 (1) Caused by compressed air [~~or due~~];

4 (2) Due to occupational exposure to, or contact with,
5 arsenic, asbestos, benzol, beryllium, zirconium,
6 cadmium, chrome, lead, fluorine, or other mineral or
7 substance with carcinogenic properties, as
8 incorporated in the Hawaii Occupational Safety and
9 Health Standards[~~7~~];

10 (3) Due to exposure to X-rays, radium, ionizing radiation,
11 or radioactive substances[~~7~~]; or

12 (4) Due to post-traumatic stress disorder under section
13 386- ,

14 but [~~such~~] the claim shall be barred unless it is made to the
15 director, in writing, within two years after knowledge that the
16 injury or disease was proximately caused by, or resulted from
17 the nature of, the employment. The claim may be made by the
18 injured employee or the employee's dependents or by some other
19 person on the employee's or their behalf. The claim shall state
20 in ordinary language the time, place, nature, and cause of the
21 injury."



1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.

7

INTRODUCED BY: Lyn DeCrite



Report Title:

Workers' Compensation; PTSD; First Responders; Firefighters;
Emergency Medical Attendants; Law Enforcement Officers

Description:

Requires claims of post-traumatic stress disorder suffered by first responders to be compensable under workers' compensation under certain conditions if the post-traumatic stress disorder resulted from the first responder acting within the course and scope of the first responder's employment. Defines "first responder." Exempts injuries caused by post-traumatic stress disorder from certain time limitations applicable to workers' compensation claims.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

