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LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature First Regular Session - 2019

IN THE _____

BILL NO. _____

BY _____

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-451, IDAHO CODE,

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

SECTION 1. That Section 72-451, Idaho Code, be, and the same is hereby amended to read as follows:

72-451. PSYCHOLOGICAL ACCIDENTS AND INJURIES. (1) Psychological injuries, disorders or conditions shall not be compensated under this title, unless the following conditions are met:

~~(1)~~ (a) Such injuries of any kind or nature emanating from the workplace shall be compensated only if caused by accident and physical injury as defined in section 72-102(18) (a) through (18) (c), Idaho Code, or only if accompanying an occupational disease with resultant physical injury, except that a psychological mishap or event may constitute an accident where: (i) it results in resultant physical injury so long as the psychological mishap or event meets the other criteria of this section, and (ii) it is readily recognized and identifiable as having occurred in the workplace, and (iii) it must be the product of a sudden and extraordinary event; and

~~(2)~~ (b) No compensation shall be paid for such injuries arising from conditions generally inherent in every working situation or from a personnel related action including, but not limited to, disciplinary action, changes in duty, job evaluation or employment termination; and

~~(3)~~ (c) Such accident and injury must be the predominant cause as compared to all other causes combined of any consequence for which benefits are claimed under this section; and

~~(4)~~ (d) Where psychological causes or injuries are recognized by this section, such causes or injuries must exist in a real and objective sense; and

~~(5)~~ (e) Any permanent impairment or permanent disability for psychological injury recognizable under the Idaho worker's compensation law must be based on a condition sufficient to constitute a diagnosis using the terminology and criteria of the American psychiatric association's diagnostic and statistics manual of mental disorders, ~~third~~ fifth edition revised, or any successor manual promulgated by the American psychiatric association, and must be made by a psychologist, or psychiatrist duly licensed to practice in the jurisdiction in which treatment is rendered; and

~~(6)~~ (f) Clear and convincing evidence that the psychological injuries arose out of and in the course of the employment from an accident or occupational disease as contemplated in this section is required.

Nothing ~~herein~~ in subsection (1) of this section shall be construed as allowing compensation for psychological injuries from psychological causes without accompanying physical injury.

The provisions of This subsection (1) of this section shall apply to accidents and injuries occurring on or after July 1, 1994, and to causes of action for benefits accruing on or after July 1, 1994, notwithstanding that the original worker's compensation claim may have occurred prior to July 1, 1994.

(2) Notwithstanding subsection (1) of this section, post-traumatic stress disorder suffered by a first responder is a compensable injury when the following conditions are met:

(a) The first responder is examined and subsequently diagnosed with post-traumatic stress disorder by a psychologist or psychiatrist duly licensed to practice in the jurisdiction where treatment is rendered;

(b) The preponderance of the evidence indicates that the post-traumatic stress disorder was predominantly caused by an event, or events, occurring in the course and scope of the first responder's employment;

(c) The event, or events, causing the post-traumatic stress disorder were extraordinary and unusual in comparison to the normal conditions of the particular employment; and

(d) The post-traumatic stress disorder did not arise from a personnel action, including but not limited to disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action.

(3) As used in subsection (2) of this section:

(a) "Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder specified by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, fifth edition, or a later edition.

(b) "First responder" means:

(i) A peace officer as defined in 19-5101(d), Idaho Code, when employed by a city, county, or the Idaho State Police;

(ii) A firefighter as defined in sections 59-1391(f) and 72-1403(A), Idaho Code;

(iii) A volunteer emergency responder, as defined in 72-102(32), Idaho Code;

(iv) An emergency medical service provider, or EMS provider, certified by the department of health and welfare pursuant to sections 56-1011 through 56-1018B, Idaho Code, and an ambulance-based clinician as defined in the rules governing emergency medical services as adopted by the department of health and welfare; and

(v) An emergency communications officer, as defined in 19-5101(f), Idaho Code.

(4) Subsections (2) and (3) of this section are effective for first responders with dates of injury on or after July 1, 2019.