

AMENDMENTS TO LB5

Introduced by Blood, 3.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. (1) For an employee other than a first responder,
4 frontline state employee, or county correctional officer, personal injury
5 includes mental injuries and mental illness unaccompanied by physical
6 injury if such employee:

7 (a) Establishes that such employee was physically present during an
8 incident of workplace violence which occurred in such employee's
9 workplace;

10 (b) Establishes that such incident of workplace violence produced
11 the mental injury or mental illness which brought about the need for
12 medical attention and the interruption of employment; and

13 (c) Establishes through a mental health professional the medical
14 causation between the mental injury or mental illness and the incident of
15 workplace violence by medical evidence.

16 (2) For purposes of this section:

17 (a) County correctional officer has the same meaning as in section
18 48-101.01;

19 (b) First responder has the same meaning as in section 48-101.01;

20 (c) Frontline state employee has the same meaning as in section
21 48-101.01;

22 (d) Mental health professional has the same meaning as in section
23 48-101.01; and

24 (e) Workplace violence means a shooting, a hostage situation, or an
25 act of terrorism occurring in the workplace.

26 (3) All other provisions of the Nebraska Workers' Compensation Act
27 apply to this section.

1 Sec. 2. Section 48-151, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-151 Throughout the Nebraska Workers' Compensation Act, the
4 following words and phrases shall be considered to have the following
5 meaning, respectively, unless the context clearly indicates a different
6 meaning in the construction used:

7 (1) Physician means any person licensed to practice medicine and
8 surgery, osteopathic medicine, chiropractic, podiatry, or dentistry in
9 the State of Nebraska or in the state in which the physician is
10 practicing;

11 (2) Accident means an unexpected or unforeseen injury happening
12 suddenly and violently, with or without human fault, and producing at the
13 time objective symptoms of an injury. The claimant has the burden of
14 proof to establish by a preponderance of the evidence that such
15 unexpected or unforeseen injury was in fact caused by the employment.
16 There is no presumption from the mere occurrence of such unexpected or
17 unforeseen injury that the injury was in fact caused by the employment;

18 (3) Occupational disease means only a disease which is due to causes
19 and conditions which are characteristic of and peculiar to a particular
20 trade, occupation, process, or employment and excludes all ordinary
21 diseases of life to which the general public is exposed;

22 (4) Injury and personal injuries mean only violence to the physical
23 structure of the body and such disease or infection as naturally results
24 therefrom and personal injuries described in section 48-101.01 and
25 section 1 of this act. The terms include disablement resulting from
26 occupational disease arising out of and in the course of the employment
27 in which the employee was engaged and which was contracted in such
28 employment. The terms include an aggravation of a preexisting
29 occupational disease, the employer being liable only for the degree of
30 aggravation of the preexisting occupational disease. The terms do not
31 include disability or death due to natural causes but occurring while the

1 employee is at work and do not include an injury, disability, or death
2 that is the result of a natural progression of any preexisting condition;

3 (5) Death, when mentioned as a basis for the right to compensation,
4 means only death resulting from such violence and its resultant effects
5 or from occupational disease;

6 (6) Without otherwise affecting either the meaning or the
7 interpretation of the abridged clause, personal injuries arising out of
8 and in the course of employment, it is hereby declared not to cover
9 workers except while engaged in, on, or about the premises where their
10 duties are being performed or where their service requires their presence
11 as a part of such service at the time of the injury and during the hours
12 of service as such workers, and not to cover workers who on their own
13 initiative leave their line of duty or hours of employment for purposes
14 of their own. Property maintained by an employer is considered the
15 premises of such employer for purposes of determining whether the injury
16 arose out of employment;

17 (7) Willful negligence consists of (a) a deliberate act, (b) such
18 conduct as evidences reckless indifference to safety, or (c) intoxication
19 at the time of the injury, such intoxication being without the consent,
20 knowledge, or acquiescence of the employer or the employer's agent;

21 (8) Intoxication includes, but is not limited to, being under the
22 influence of a controlled substance not prescribed by a physician;

23 (9) Prospective loss costs means prospective loss costs as defined
24 in section 44-7504 and prepared, filed, or distributed by an advisory
25 organization which has been issued a certificate of authority pursuant to
26 section 44-7518;

27 (10) Client means client as defined in section 48-2702;

28 (11) Professional employer organization means professional employer
29 organization as defined in section 48-2702;

30 (12) Multiple coordinated policy means multiple coordinated policy
31 as defined in section 48-2702;

1 (13) Master policy means master policy as defined in section
2 48-2702; and

3 (14) Whenever in the Nebraska Workers' Compensation Act the singular
4 is used, the plural is considered included; when the masculine gender is
5 used, the feminine is considered included.

6 Sec. 3. Section 48-1,110, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 48-1,110 Sections 48-101 to 48-1,117 and section 1 of this act shall
9 be known and may be cited as the Nebraska Workers' Compensation Act.

10 Sec. 4. Original sections 48-151 and 48-1,110, Reissue Revised
11 Statutes of Nebraska, are repealed.