

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 365 Session of 2023

INTRODUCED BY BARTOLOTTA, REGAN, TARTAGLIONE, STEFANO, YAW, PENNYCUICK, BAKER, COSTA, ROBINSON, KANE, L. WILLIAMS, CAPPELLETTI, DILLON, MUTH, FARRY AND COMMITTA, FEBRUARY 21, 2023

SENATOR PITTMAN, RULES AND EXECUTIVE NOMINATIONS, RE-REPORTED AS AMENDED, OCTOBER 8, 2024

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled "An
2 act defining the liability of an employer to pay damages for
3 injuries received by an employe in the course of employment;
4 establishing an elective schedule of compensation; providing
5 procedure for the determination of liability and compensation
6 thereunder; and prescribing penalties," in interpretation and
7 definitions, further providing for definitions; and, in
8 liability and compensation, providing for compensation for
9 post-traumatic stress injury.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 109 of the act of June 2, 1915 (P.L.736,
13 No.338), known as the Workers' Compensation Act, is amended by
14 adding definitions to read:

15 Section 109. In addition to the definitions set forth in
16 this article, the following words and phrases when used in this
17 act shall have the meanings given to them in this section unless
18 the context clearly indicates otherwise:

19 * * *

20 "First responder" means any of the following public servants:

1 (1) An emergency medical services provider or EMS provider,
2 as defined in 35 Pa.C.S. § 8103 (relating to definitions)-, WHO <--
3 IS AN ACTIVE VOLUNTEER, EMPLOYE OR MEMBER OF AN EMS COMPANY THAT
4 IS:

5 (I) DESIGNATED BY A MUNICIPALITY AS THE MUNICIPALITY'S
6 PRIMARY EMS PROVIDER; OR

7 (II) DISPATCHED BY A PUBLIC SAFETY ANSWERING POINT AS
8 DEFINED IN 35 PA.C.S. § 5302 (RELATING TO DEFINITIONS) OR IN
9 ACCORDANCE WITH A MUTUAL AID AGREEMENT UNDER 35 PA.C.S. § 7504
10 (RELATING TO COORDINATION, ASSISTANCE AND MUTUAL AID).

11 (2) An active volunteer, employe or member of a fire company
12 as defined in 35 Pa.C.S. § 7802 (relating to definitions) WHO <--
13 RESPONDS TO EMERGENCY CALLS.

14 (3) A Pennsylvania State Police officer.

15 (4) A peace officer as defined in 18 Pa.C.S. § 501 (relating
16 to definitions) WHO RESPONDS TO EMERGENCY CALLS. <--

17 * * *

18 "Post-traumatic stress injury" shall have the meaning given
19 in 35 Pa.C.S. § 75A01 (relating to definitions).

20 * * *

21 "QUALIFYING TRAUMATIC EVENT" MEANS AN INCIDENT OR EXPOSURE: <--

22 (1) RESULTING IN SERIOUS BODILY INJURY OR DEATH TO AN
23 INDIVIDUAL;

24 (2) INVOLVING A MINOR WHO HAS BEEN INJURED, KILLED, ABUSED
25 OR EXPLOITED;

26 (3) INVOLVING AN IMMEDIATE THREAT TO THE LIFE OF THE
27 CLAIMANT OR ANOTHER INDIVIDUAL;

28 (4) INVOLVING MASS CASUALTIES; OR

29 (5) RESPONDING TO CRIME SCENES FOR INVESTIGATIONS.

30 * * *

1 Section 2. Section 301 of the act is amended by adding a
2 subsection to read:

3 Section 301. * * *

4 (g) (1) A claim for a post-traumatic stress injury suffered
5 by a first responder shall establish that the injury was THE <--
6 RESULT OF THE INDIVIDUAL UNDERGOING A QUALIFYING TRAUMATIC EVENT
7 AND WAS sustained in the course and scope of the individual's
8 employment as a first responder. A post-traumatic stress injury
9 suffered by a first responder shall not be required to be the
10 result of an abnormal working condition to be a compensable
11 injury under this act.

12 (2) WORKERS' COMPENSATION BENEFITS FOR A POST-TRAUMATIC <--
13 STRESS INJURY SUFFERED BY AN INDIVIDUAL UNDER PARAGRAPH (1)
14 SHALL BE AVAILABLE DURING THE PERIOD OF THE POST-TRAUMATIC
15 STRESS INJURY, BUT NOT FOR A PERIOD OF MORE THAN ONE HUNDRED
16 FOUR WEEKS.

17 ~~(2)~~ (3) A post-traumatic stress injury suffered by an <--
18 individual under paragraph (1) shall be based on assessment and
19 diagnosis by a licensed medical professional or a licensed <--
20 mental health professional whose scope of practice includes
21 evaluation, assessment and diagnostic privileges specified by
22 the scope of practice of the profession PSYCHOLOGIST OR <--
23 PSYCHIATRIST under the laws and regulations of this
24 Commonwealth.

25 ~~(3)~~ (4) A claim for a post-traumatic stress injury must be <--
26 filed within three years of NO LATER THAN THREE YEARS AFTER the <--
27 date of a diagnosis under paragraph ~~(2)~~. (3) AND THE INJURY <--
28 SHALL NOT HAVE OCCURRED MORE THAN FIVE YEARS BEFORE THE
29 EFFECTIVE DATE OF THIS PARAGRAPH.

30 ~~(4)~~ (5) When a post-traumatic stress injury is diagnosed <--

1 after the last date of employment, paragraph (1) shall not be
2 construed to prohibit a claim against the employer of the
3 claimant at the time of the ~~direct~~ exposure to the QUALIFYING <--
4 traumatic event which caused the injury.

5 ~~(5)~~ (6) For purposes of this subsection, a post-traumatic <--
6 stress injury suffered as a result of ~~an employment action,~~ <--
7 ~~including~~ A disciplinary action, job or performance evaluation, <--
8 job transfers or employment termination, shall not be
9 compensable.

10 (7) ALL TERMS AND CONDITIONS SPECIFIED UNDER THIS ACT AND <--
11 NOT SPECIFICALLY ADDRESSED UNDER THIS SUBSECTION SHALL REMAIN IN
12 FULL FORCE AND EFFECT AND SHALL APPLY TO BENEFITS PROVIDED UNDER
13 THIS SUBSECTION.

14 Section 3. The amendment or addition of sections 109 and
15 301(g) of the act shall apply to claims filed on or after the
16 effective date of this section.

17 Section 4. This act shall take effect in ~~60 days~~ ONE YEAR. <--