

MENTAL HEALTH PROTECTIONS FOR FIRST RESPONDERS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Kwan

Senate Sponsor: Gene Davis

LONG TITLE

General Description:

This bill makes amendments regarding workers' compensation claims of first responders.

Highlighted Provisions:

This bill:

- ▶ defines "first responders"; and
- ▶ makes amendments regarding a first responder's workers' compensation claim due to mental stress.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-2-102, as last amended by Laws of Utah 2017, Chapter 363

34A-2-402, as renumbered and amended by Laws of Utah 1997, Chapter 375

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34A-2-102** is amended to read:



28 **34A-2-102. Definition of terms.**

29 (1) As used in this chapter:

30 (a) "Average weekly wages" means the average weekly wages as determined under
31 Section [34A-2-409](#).

32 (b) "Award" means a final order of the commission as to the amount of compensation
33 due:

34 (i) an injured employee; or

35 (ii) a dependent of a deceased employee.

36 (c) "Compensation" means the payments and benefits provided for in this chapter or
37 Chapter 3, Utah Occupational Disease Act.

38 (d) (i) "Decision" means a ruling of:

39 (A) an administrative law judge; or

40 (B) in accordance with Section [34A-2-801](#):

41 (I) the commissioner; or

42 (II) the Appeals Board.

43 (ii) "Decision" includes:

44 (A) an award or denial of a medical, disability, death, or other related benefit under this
45 chapter or Chapter 3, Utah Occupational Disease Act; or

46 (B) another adjudicative ruling in accordance with this chapter or Chapter 3, Utah
47 Occupational Disease Act.

48 (e) "Director" means the director of the division, unless the context requires otherwise.

49 (f) "Disability" means an administrative determination that may result in an entitlement
50 to compensation as a consequence of becoming medically impaired as to function. Disability
51 can be total or partial, temporary or permanent, industrial or nonindustrial.

52 (g) "Division" means the Division of Industrial Accidents.

53 (h) "First responder" means:

54 (i) a law enforcement officer, as defined in Section [53-13-103](#);

55 (ii) an emergency medical technician, as defined in Section [26-8c-102](#);

56 (iii) an advanced emergency medical technician, as defined in Section [26-8c-102](#);

57 (iv) a paramedic, as defined in Section [26-8c-102](#); ~~H~~ → ~~or~~ ← ~~H~~

58 (v) a firefighter, as defined in Section [34A-3-113](#) ~~H~~ → ~~I~~ ;

58a (vi) a correctional officer, as defined in Section [53-13-104](#); or

58b (vii) an emergency dispatch operator. ← ~~H~~

59 ~~[(h)]~~ (i) "Impairment" is a purely medical condition reflecting an anatomical or
60 functional abnormality or loss. Impairment may be either temporary or permanent, industrial
61 or nonindustrial.

62 ~~[(i)]~~ (j) "Order" means an action of the commission that determines the legal rights,
63 duties, privileges, immunities, or other interests of one or more specific persons, but not a class
64 of persons.

65 ~~[(j)]~~ (k) (i) "Personal injury by accident arising out of and in the course of
66 employment" includes an injury caused by the willful act of a third person directed against an
67 employee because of the employee's employment.

68 (ii) "Personal injury by accident arising out of and in the course of employment" does
69 not include a disease, except as the disease results from the injury.

70 ~~[(k)]~~ (l) "Safe" and "safety," as applied to employment or a place of employment,
71 means the freedom from danger to the life or health of employees reasonably permitted by the
72 nature of the employment.

73 (2) As used in this chapter and Chapter 3, Utah Occupational Disease Act:

74 (a) "Brother or sister" includes a half brother or sister.

75 (b) "Child" includes:

76 (i) a posthumous child; or

77 (ii) a child legally adopted prior to an injury.

78 Section 2. Section **34A-2-402** is amended to read:

79 **34A-2-402. Mental stress claims.**

80 (1) Physical, mental, or emotional injuries related to mental stress arising out of and in
81 the course of employment shall be compensable under this chapter only when there is a
82 sufficient legal and medical causal connection between the employee's injury and employment.

83 (2) (a) Legal causation requires proof of extraordinary mental stress from a sudden
84 stimulus arising predominantly and directly from employment.

85 (b) The extraordinary and sudden nature of the alleged mental stress is judged
86 according to an objective standard in comparison with contemporary national employment and
87 nonemployment life.

88 (3) Medical causation requires proof that the physical, mental, or emotional injury was
89 medically caused by the mental stress that is the legal cause of the physical, mental, or

90 emotional injury.

91 (4) Good faith employer personnel actions including disciplinary actions, work
92 evaluations, job transfers, layoffs, demotions, promotions, terminations, or retirements, may
93 not form the basis of compensable mental stress claims under this chapter.

94 (5) Alleged discrimination, harassment, or unfair labor practices otherwise actionable
95 at law may not form the basis of compensable mental stress claims under this chapter.

96 (6) An employee who alleges a compensable industrial accident involving mental
97 stress bears the burden of proof to establish legal and medical causation by a preponderance of
98 the evidence.

99 (7) The legal and medical causal connection described in Subsection (1) is satisfied if
100 an individual is ←H→ :

100a (a) ←H→ a first responder H→ [e] ; and

100b (b) after the individual becomes a first responder, the individual is diagnosed with a
100c mental health condition by a licensed physician or other licensed health care professional. ←H→

Legislative Review Note
Office of Legislative Research and General Counsel