

IN THE SENATE

SENATE BILL NO. 1028

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-451, IDAHO CODE, TO
2 PROVIDE THAT CERTAIN PSYCHOLOGICAL INJURIES AFFECTING FIRST RESPONDERS
3 SHALL BE COMPENSABLE AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING A
4 SUNSET DATE.
5

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

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

9 72-451. PSYCHOLOGICAL ACCIDENTS AND INJURIES. (1) Psychological in-
10 juries, disorders or conditions shall not be compensated under this title,
11 unless the following conditions are met:

12 (1a) Such injuries of any kind or nature emanating from the workplace
13 shall be compensated only if caused by accident and physical injury
14 as defined in section 72-102(18) (a) through (18) (c), Idaho Code, or
15 only if accompanying an occupational disease with resultant physical
16 injury, except that a psychological mishap or event may constitute an
17 accident where:

18 (i) ~~It~~ It results in resultant physical injury ~~so~~ as long as the
19 psychological mishap or event meets the other criteria of this
20 section, ~~and~~;

21 (ii) ~~It~~ It is readily recognized and identifiable as having oc-
22 curred in the workplace, ~~i~~ and

23 (iii) ~~It~~ It must be the product of a sudden and extraordinary event;
24 ~~and~~

25 (2b) No compensation shall be paid for such injuries arising from con-
26 ditions generally inherent in every working situation or from a person-
27 nel-related action including, but not limited to, disciplinary action,
28 changes in duty, job evaluation or employment termination; ~~and~~

29 (3c) Such accident and injury must be the predominant cause as compared
30 to all other causes combined of any consequence for which benefits are
31 claimed under this section; ~~and~~

32 (4d) Where psychological causes or injuries are recognized by this sec-
33 tion, such causes or injuries must exist in a real and objective sense;
34 ~~and~~

35 (5e) Any permanent impairment or permanent disability for psychologi-
36 cal injury recognizable under the Idaho worker's compensation law must
37 be based on a condition sufficient to constitute a diagnosis using the
38 terminology and criteria of the American psychiatric association's di-
39 agnostic and ~~statistics~~ statistical manual of mental disorders, third
40 edition revised, or any successor manual promulgated by the American
41 psychiatric association, and must be made by a psychologist, ~~or psychi-~~

1 atrist duly licensed to practice in the jurisdiction in which treatment
2 is rendered; and

3 (6f) Clear and convincing evidence that the psychological injuries
4 arose out of and in the course of the employment from an accident or oc-
5 cupational disease as contemplated in this section is required.

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

9 (3) The provisions of subsection (1) of tThis section shall apply to
10 accidents and injuries occurring on or after July 1, 1994, and to causes of
11 action for benefits accruing on or after July 1, 1994, notwithstanding that
12 the original worker's compensation claim may have occurred prior to July 1,
13 1994.

14 (4) Notwithstanding subsection (1) of this section, post-traumatic
15 stress injury suffered by a first responder is a compensable injury or occu-
16 pational disease when the following conditions are met:

17 (a) The first responder is examined and subsequently diagnosed with
18 post-traumatic stress injury by a psychologist, a psychiatrist duly li-
19 censed to practice in the jurisdiction where treatment is rendered, or a
20 counselor trained in post-traumatic stress injury; and

21 (b) Clear and convincing evidence indicates that the post-traumatic
22 stress injury was caused by an event or events arising out of and in the
23 course of the first responder's employment.

24 (5) No compensation shall be paid for such injuries described in sub-
25 section (2) of this section arising from a personnel-related action includ-
26 ing, but not limited to, disciplinary action, changes in duty, job evalua-
27 tion, or employment termination.

28 (6) As used in subsection (4) of this section:

29 (a) "Post-traumatic stress injury" means a disorder that meets the di-
30 agnostic criteria for post-traumatic stress disorder or post-traumatic
31 stress injury specified by the American psychiatric association's di-
32 agnostic and statistical manual of mental disorders, fifth edition re-
33 vised, or any successor manual promulgated by the American psychiatric
34 association.

35 (b) "First responder" means:

36 (i) A peace officer as defined in section 19-5101 (d), Idaho Code,
37 when employed by a city, county, or the Idaho state police;

38 (ii) A firefighter as defined in sections 59-1391(f) and
39 72-1403 (A), Idaho Code;

40 (iii) A volunteer emergency responder as defined in section
41 72-102 (32), Idaho Code;

42 (iv) An emergency medical service provider, or EMS provider,
43 certified by the department of health and welfare pursuant to
44 sections 56-1011 through 56-1018B, Idaho Code, and an ambu-
45 lance-based clinician as defined in the rules governing emergency
46 medical services as adopted by the department of health and wel-
47 fare; and

48 (v) An emergency communications officer as defined in section
49 19-5101 (f), Idaho Code.

1 (7) Subsections (4) through (6) of this section are effective for first
2 responders with dates of injury or manifestations of occupational disease on
3 or after July 1, 2019.

4 SECTION 2. The provisions of this act shall be null, void, and of no
5 force and effect on and after July 1, 2023.