**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3272**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Pope, Gilliam, Wooten, McCravy, Lawson and Pace

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Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Workers' Compensation

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/8/2022 House Prefiled

 12/8/2022 House Referred to Committee on **Labor, Commerce and Industry**

 1/10/2023 House Introduced and read first time (House Journal‑page 115)

 1/10/2023 House Referred to Committee on **Labor, Commerce and Industry** (House Journal‑page 115)

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**VERSIONS OF THIS BILL**

[12/08/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/3272_20221208.docx)

A bill

to amend the South Carolina Code of Laws by adding Section 42‑9‑50 so as to provide the requirements for a first responder to file a workers’ compensation claim for a stress or mental injury unaccompanied by a physical injury.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 9, Title 42 of the S.C. Code is amended by adding:

 Section 42‑9‑50. (A) As used in this section:

 (1) “First responder” means a law enforcement officer or firefighter employed by state or local government. A volunteer law enforcement officer or firefighter engaged by state or local government is also considered a first responder of the state or local government for the purposes of this section.

 (2) “Significant traumatic experience or situation” means one of the following events:

 (a) witnessing a deceased minor or the death of a minor;

 (b) witnessing an injury to a minor who subsequently died before or upon arrival at a hospital emergency department;

 (c) participating in the physical treatment of an injured minor who subsequently died before or upon arrival at a hospital emergency department;

 (d) manually transporting an injured minor who subsequently died before or upon arrival at a hospital emergency department;

 (e) seeing for oneself a decedent whose death involved grievous bodily harm;

 (f) witnessing a death, including suicide, that involved grievous bodily harm;

 (g) witnessing a homicide, regardless of whether the homicide was criminal or excusable, including murder; mass killing, which means the killing of three or more individuals in a single incident; voluntary manslaughter; involuntary manslaughter; and self defense;

 (h) witnessing an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured with grievous bodily harm;

 (i) participating in the physical treatment of an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured with grievous bodily harm;

 (j) manually transporting a person who was injured, including by attempted suicide, and subsequently died before or upon arrival at a hospital emergency department if the person was injured with grievous bodily harm; or

 (k) using deadly force or being subjected to deadly force in the course of the first responder’s employment.

 (3) “Witnessing” means to see, hear, or smell for oneself.

 (4) “Grievous bodily harm” means serious bodily injury including fractured or dislocated bones, deep cuts, torn members of the body, serious damages to internal organs, and other severe bodily injuries.

 (B) A first responder who sustains a stress or mental injury unaccompanied by a physical injury arising out of and in the course of his employment shall be concluded to have sustained injury by accident if:

 (1) the employee is employed as a first responder and if the impairment causing the stress, mental injury, or mental illness is medically diagnosed as post‑traumatic stress disorder, as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, arising from the first responder’s involvement in a significant traumatic experience or situation in the course and scope of his employment, without regard to whether the experience or situation was extraordinary or unusual in comparison to the normal working conditions of a first responder’s employment;

 (2) the first responder is participating in and receiving clinical care through the South Carolina Law Enforcement Assistance Program (SCLEAP), the South Carolina First Responders Assistance and Support Team (SC FAST), or their successor programs. An injured worker who is receiving medical benefits under this section must exhaust the clinical care provided through SCLEAP, SC FAST, or their successor programs before he is entitled to medical care under Section 42‑15‑60; and

 (3) there is an incapacity to work as determined by the treating physician.

 (C) When the incapacity for work resulting from an injury under this section is total, the employer shall pay, or cause to be paid, as provided in this chapter, to the injured employee during the total disability a weekly compensation equal to sixty‑six and two‑thirds of his average weekly wages, but not less than seventy‑five dollars a week so long as this amount does not exceed his average weekly wages; if this amount does exceed his average weekly wages, the injured employee may not be paid, each week, less than his average weekly wages. The injured employee may not be paid more each week than the average weekly wage in this State for the preceding fiscal year. In no case may the period covered by the compensation exceed five hundred weeks except as provided in Section 42‑9‑10(C). An injured employee is not entitled to indemnity under Section 42‑9‑10 or Section 42‑9‑30, unless the incapacity for work resulting from an injury under this section is total incapacity to work.

 (D) Stress or mental injuries arising out of and in the course of employment unaccompanied by physical injury are not considered compensable if they result from any event or series of events which are incidental to normal employer‑employee relations including, but not limited to, personnel actions by the employer such as disciplinary actions, work evaluations, transfers, promotions, demotions, salary reviews, or terminations, except when these actions are taken in an extraordinary and unusual manner.

 (E) Stress, mental injuries, and mental illness alleged to have been aggravated by a work‑related physical injury may not be found compensable unless the aggravation is:

 (1) admitted by the employer or carrier;

 (2) noted in a medical record of an authorized physician that, in the physician's opinion, the condition is at least in part causally related or connected to the injury or accident, whether or not the physician refers the employee for treatment of the condition;

 (3) found to be causally related or connected to the accident or injury after evaluation by an authorized psychologist or psychiatrist; or

 (4) noted in a medical record or report of the employee's physician as causally related or connected to the injury or accident.

SECTION 2. This act takes effect January 1, 2024, and is applicable to injuries that occur on or after the effective date.

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