

1 ENGROSSED HOUSE  
2 BILL NO. 3899

By: Kannady of the House

and

Howard and Thompson of the  
Senate

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7 An Act relating to workers' compensation; amending  
8 85A O.S. 2021, Section 13, which relates to certain  
9 injuries related to mental health; providing for  
10 computation of benefits for certain persons;  
11 providing for temporary pension benefits; imposing  
12 limit on total period for disability benefits;  
13 providing for award of permanent total disability  
14 based upon maximum medical improvement; providing for  
15 payment of benefits based on certain injury; imposing  
16 time limit on benefits; imposing limit on employer  
17 responsibility for prescription medicine; defining  
18 terms; providing for transfer of payment for claims  
19 or increased premiums incurred by cities or towns;  
20 prescribing procedures; providing for terminology in  
21 official publications; amending 85 O.S. 2021, Section  
22 380, which relates to volunteer firefighters;  
23 modifying references to CompSource Mutual Insurance  
24 Company; providing references to the Office of  
Management and Enterprise Services; and providing an  
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85A O.S. 2021, Section 13, is  
amended to read as follows:

Section 13. A. 1. A mental injury or illness is not a  
compensable injury unless caused by a physical injury to the  
employee, and shall not be considered an injury arising out of and

1 in the course and scope of employment or compensable unless  
2 demonstrated by a preponderance of the evidence; provided, however,  
3 that this physical injury limitation shall not apply to any victim  
4 of a crime of violence or to a law enforcement officer, firefighter,  
5 or emergency medical technician on a full-time basis by a  
6 municipality, county, or the State of Oklahoma, or a volunteer  
7 firefighter who suffers post-traumatic stress disorder, as defined  
8 herein, while responding to an emergency. For the purpose of this  
9 section, such employee shall be referred to as a first responder.

10 2. No mental injury or illness under this section shall be  
11 compensable unless it is also diagnosed by a licensed psychiatrist  
12 or psychologist and unless the diagnosis of the condition meets the  
13 criteria established in the most current issue of the Diagnostic and  
14 Statistical Manual of Mental Disorders.

15 B. 1. Notwithstanding any other provision of this act, where a  
16 claim is for mental injury or illness, the employee shall be limited  
17 to twenty-six (26) weeks of disability benefits unless it is shown  
18 by clear and convincing evidence that benefits should continue for a  
19 set period of time, not to exceed a total of fifty-two (52) weeks.  
20 If the treating physician is of the opinion that the first responder  
21 is temporarily unable to perform his or her job or any alternative  
22 work offered by the employer, he or she shall be entitled to receive  
23 compensation which is the greater of the weekly benefit provided for  
24 in a collective bargaining agreement or according to the policy of

1 the employer, or seventy percent (70%) of the injured employee's  
2 average weekly wage not to exceed the state average weekly wage. If  
3 the employee has a temporary pension benefit available at no  
4 additional cost to the employee and the benefit is equal to or  
5 greater than the temporary award in this system the employer may  
6 elect to exercise the temporary pension benefit. In no event shall  
7 disability benefits extend beyond fifty-two (52) weeks.

8       2. Notwithstanding any other provision of this section, a  
9 person who receives benefits provided herein for a mental injury or  
10 illness not caused by a physical injury who, after reaching maximum  
11 medical improvement, is unable to perform the essential functions of  
12 their employment position and who is not eligible to receive a  
13 disability retirement through their pension or retirement system  
14 shall be eligible to be awarded permanent disability benefits as  
15 provided for in this act.

16       3.   a.   In cases where death results directly from the mental  
17               injury or illness within a period of one (1) year,  
18               compensation shall be paid the dependents as provided  
19               in other death cases under this act.

20           b.   Death directly or indirectly related to the mental  
21               injury or illness occurring one (1) year or more from  
22               the incident resulting in the mental injury or illness  
23               shall not be a compensable injury.

1        C. 1. In the event the Workers' Compensation Commission finds  
2 that a first responder has suffered post-traumatic stress disorder  
3 not accompanied by a physical injury, as defined herein, the  
4 employer shall provide reasonable and necessary medical treatment  
5 for such injury, subject to the Oklahoma Workers' Compensation Fee  
6 Schedule, for a period of no longer than one (1) year. The employer  
7 shall not be responsible for medical treatment in the form of  
8 prescription medicine in excess of Ten Thousand Dollars  
9 (\$10,000.00).

10        2. During any period in which a first responder is temporarily  
11 unable to perform his or her job, the employer shall pay to maintain  
12 health insurance coverage for the first responder, if such health  
13 insurance was in effect on the date of the injury.

14        D. "Post-traumatic stress disorder", for the purpose of this  
15 section, means an injury or condition in which a first responder has  
16 been exposed to a traumatic event and:

17        1. Has experienced, witnessed, or was confronted with an event  
18 that involved actual or threatened death or serious injury, or a  
19 threat to the physical integrity of others, and the response  
20 involved fear, helplessness, or horror;

21        2. The traumatic event is persistently re-experienced in one or  
22 more of the following ways:

23                a. recurrent and intrusive distressing recollections of  
24                the event,

- b. recurrent distressing dreams,
- c. acting or feeling as if the traumatic event were recurring,
- d. intense psychological distress at exposure to cues that symbolize an aspect of the traumatic event, or
- e. physiological reactivity on exposure to cues that symbolize an aspect of the traumatic event;

3. Persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness such as efforts to avoid thoughts, feelings or conversations associated with the trauma, markedly diminished interest or participation in significant activities, or a feeling of detachment or estrangement from others;

4. Persistent symptoms of increased arousal such as difficulty falling or staying asleep, irritability or outbursts of anger, difficulty concentrating, or hypervigilance;

5. The duration of the disturbance is more than one (1) month; and

6. The disturbance causes clinically significant distress or impairment in social, occupational and other important areas of functioning.

E. "Volunteer firefighter", for the purpose of this section, means a person who is enrolled as a member of a volunteer fire department with two or less salaried firefighters and who serves in such capacity without receiving a regular salary.

1       F. "Emergency medical technician", for the purpose of this  
2 section, means a person who holds a license as an emergency medical  
3 technician, an intermediate or advanced emergency medical  
4 technician, or a paramedic, such license issued by the State  
5 Department of Health to perform emergency medical services in  
6 accordance with the Oklahoma Emergency Response Systems Development  
7 Act and the rules and standards promulgated by the State  
8 Commissioner of Health.

9       G. Any city or town in this state that incurs a claim relating  
10 to post-traumatic stress disorder may, at the city or town's option,  
11 transfer the payment of all or any portion of the claim or increased  
12 workers' compensation premiums to the judgment rolls of the  
13 geographic area or areas serviced by the department of the injured  
14 worker, including any unincorporated areas serviced by the  
15 department, and shall be listed on official publications as "First  
16 Responder PTSD".

17       SECTION 2.       AMENDATORY       85 O.S. 2021, Section 380, is  
18 amended to read as follows:

19       Section 380. A. 1. Volunteer fire departments organized  
20 pursuant to state law may obtain workers' compensation insurance for  
21 volunteer firefighters through the Volunteer Firefighter Group  
22 Insurance Pool pursuant to requirements established by ~~CompSource~~  
23 ~~Mutual Insurance Company~~ the Office of Management and Enterprise  
24 Services which shall administer the Pool. For the premium set by

1 ~~CompSource Mutual Insurance Company~~ the Office of Management and  
2 Enterprise Services, the state shall provide Fifty-five Dollars  
3 (\$55.00) per firefighter per year. Except as otherwise provided by  
4 subsection D of this section, the total amount paid by the state  
5 shall not exceed Three Hundred Twenty Thousand Three Hundred Thirty-  
6 eight Dollars (\$320,338.00) per year or so much thereof as may be  
7 necessary to fund the Volunteer Firefighter Group Insurance Pool.

8 2. ~~CompSource Mutual Insurance Company~~ The Office of Management  
9 and Enterprise Services shall collect the premium from state  
10 agencies, public trusts and other instrumentalities of the state.  
11 Any funds received by ~~CompSource Mutual Insurance Company~~ the Office  
12 of Management and Enterprise Services from any state agency, public  
13 trust, or other instrumentality for purposes of workers'  
14 compensation insurance pursuant to this section shall be deposited  
15 to the credit of the Volunteer Firefighter Group Insurance Pool.  
16 ~~CompSource Mutual Insurance Company~~ The Office of Management and  
17 Enterprise Services shall collect premiums, pay claims, and provide  
18 for excess insurance as needed.

19 B. ~~CompSource Mutual Insurance Company~~ The Office of Management  
20 and Enterprise Services shall report, annually, to the Governor, the  
21 Speaker of the Oklahoma House of Representatives, and the President  
22 Pro Tempore of the State Senate the number of enrollees in the  
23 Volunteer Firefighter Group Insurance Pool, and the amount of any  
24 anticipated surplus or deficiency of the Pool; and shall also

1 provide to the Governor, the Speaker of the Oklahoma House of  
2 Representatives and the President Pro Tempore of the State Senate  
3 sixty (60) days advance notice of any proposed change in rates for  
4 the Volunteer Firefighter Group Insurance Pool.

5 C. The amount of claims paid, claim expenses, underwriting  
6 losses, loss ratio, or any other financial aspect of the Volunteer  
7 Firefighter Group Insurance Pool shall not be considered when  
8 determining or considering bids for the amount of any premiums,  
9 rates, or expenses owed by, or any discounts, rebates, dividends, or  
10 other financial benefits owed to any other policyholder of  
11 ~~CompSource Mutual Insurance Company~~ the Office of Management and  
12 Enterprise Services.

13 D. Except as otherwise provided by law, any increase in the  
14 state payment rate for volunteer firefighters under the Volunteer  
15 Firefighter Group Insurance Pool shall not exceed five percent (5%)  
16 per annum. Any proposed change in rates for the Volunteer  
17 Firefighter Group Insurance Pool must be approved by the ~~Board of~~  
18 ~~Directors of CompSource Mutual Insurance Company~~ Office of  
19 Management and Enterprise Services with notice provided pursuant to  
20 subsection B of this section. ~~CompSource Mutual Insurance Company~~  
21 The Office of Management and Enterprise Services shall not increase  
22 premiums for the Volunteer Firefighter Group Insurance Pool more  
23 than once per annum.



1 E. For purposes of this section, the term "volunteer fire  
2 departments" includes those volunteer fire departments which have  
3 authorized voluntary or uncompensated workers rendering services as  
4 firefighters and are created by statute pursuant to Section 592 of  
5 Title 18 of the Oklahoma Statutes, Sections 29-201 through 29-204 of  
6 Title 11 of the Oklahoma Statutes, and those defined by Section 351  
7 of Title 19 of the Oklahoma Statutes.

8 SECTION 3. This act shall become effective November 1, 2022.

9 Passed the House of Representatives the 22nd day of March, 2022.

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12 Presiding Officer of the House  
of Representatives

13 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2022.

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16 Presiding Officer of the Senate