

1 H.197

2 Introduced by Representatives Copeland-Hanzas of Bradford, Chesnut-  
3 Tangerman of Middletown Springs, Hubert of Milton, and  
4 Poirier of Barre City

5 Referred to Committee on

6 Date:

7 Subject: Labor; workers' compensation; mental health

8 Statement of purpose of bill as introduced: This bill proposes to provide  
9 workers' compensation coverage for mental conditions that result from  
10 workplace conditions that are a characteristic of or peculiar to a particular  
11 occupation.

12 An act relating to mental health parity for workers' compensation

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 ~~Sec. 1. 21 V.S.A. § 601 is amended to read:~~

15 § 601. DEFINITIONS

16 Unless the context otherwise requires, words and phrases used in this  
17 chapter shall be construed as follows:

18 \* \* \*

19 ~~(11) "Personal injury by accident arising out of and in the course of~~

1 ~~employment” includes an injury caused by the willful act of a third person~~  
2 directed against an employee because of that employment.

3 \* \* \*

4 (I)(i) In the case of police officers, rescue or ambulance workers, or  
5 firefighters, post-traumatic stress disorder that is diagnosed by a psychiatrist or  
6 psychologist shall be presumed to have been incurred during service in the line  
7 of duty and shall be compensable, unless it is shown by a preponderance of the  
8 evidence that the post-traumatic stress disorder was caused by nonservice-  
9 connected risk factors or nonservice-connected exposure.

10 (ii) A police officer, rescue or ambulance worker, or firefighter  
11 who is diagnosed with post-traumatic stress disorder within three years of the  
12 last active date of employment as a police officer, rescue or ambulance worker,  
13 or firefighter shall be eligible for benefits under this subdivision (11).

14 \* \* \*

15 (23) “Occupational disease” means a disease that results from causes  
16 and conditions characteristic of and peculiar to a particular trade, occupation,  
17 process, or employment, and to which an employee is not ordinarily subjected  
18 or exposed to outside or away from the employment and arises out of and in  
19 the course of the employment. The term “occupation disease” shall include a  
20 mental condition as defined in 8 V.S.A. § 4089b, whether sudden or gradual in  
21 onset, that requires medical or psychiatric services or that results in physical or

1 ~~psychiatric disability or death~~

2 \* \* \*

3 Sec. 2. EFFECTIVE DATE

4 ~~This act shall take effect on July 1, 2017.~~

~~Sec. 1. 21 V.S.A. § 601 is amended to read:~~

~~§ 601. DEFINITIONS~~

~~Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:~~

~~\* \* \*~~

~~(11) "Personal injury by accident arising out of and in the course of employment" includes an injury caused by the willful act of a third person directed against an employee because of that employment.~~

~~\* \* \*~~

~~(1)(i) In the case of police officers, rescue or ambulance workers, or firefighters, post-traumatic stress disorder that is diagnosed by a mental health professional shall be presumed to have been incurred during service in the line of duty and shall be compensable, unless it is shown by a preponderance of the evidence that the post-traumatic stress disorder was caused by nonservice-connected risk factors or nonservice-connected exposure.~~

~~(ii) A police officer, rescue or ambulance worker, or firefighter who is diagnosed with post-traumatic stress disorder within three years of the~~

~~last active date of employment as a police officer, rescue or ambulance worker  
or firefighter shall be eligible for benefits under this subdivision (11).~~

~~(iii) As used in this subdivision (11)(I):~~

~~(I) "Firefighter" means a firefighter as defined in 20 V.S.A.  
§ 3151(3) and (4).~~

~~(II) "Mental health professional" means a person with  
professional training, experience, and demonstrated competence in the  
treatment and diagnosis of mental conditions, who is certified or licensed by  
this State to provide mental health care services and for whom diagnoses of  
mental conditions are within his or her scope of practice, including a  
physician, nurse with recognized psychiatric specialties, psychologist, clinical  
social worker, mental health counselor, or alcohol or drug abuse counselor.~~

~~(III) "Police officer" means a law enforcement officer who has  
been certified by the Vermont Criminal Justice Training Council pursuant to  
20 V.S.A. chapter 151.~~

~~(IV) "Rescue or ambulance worker" means ambulance service,  
emergency medical personnel, first responder service, and volunteer personnel  
as defined in 24 V.S.A. § 2651.~~

~~\* \* \*~~

~~(23) "Occupational disease" means a disease that results from causes  
and conditions characteristic of and peculiar to a particular trade, occupation,~~

~~process, or employment, and to which an employee is not ordinarily subjected or exposed outside or away from the employment, and that arises out of and in the course of the employment. The term "occupational disease" shall include a mental condition as defined in 8 V.S.A. § 4089b, whether sudden or gradual in onset, that requires medical or psychiatric services or that results in physical or psychiatric disability or death.~~

Sec. 1. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

\* \* \*

(11) "Personal injury by accident arising out of and in the course of employment" includes an injury caused by the willful act of a third person directed against an employee because of that employment.

\* \* \*

(I)(i) In the case of police officers, rescue or ambulance workers, or firefighters, post-traumatic stress disorder that is diagnosed by a mental health professional shall be presumed to have been incurred during service in the line of duty and shall be compensable, unless it is shown by a preponderance of the evidence that the post-traumatic stress disorder was caused by nonservice-

connected risk factors or nonservice-connected exposure.

(ii) A police officer, rescue or ambulance worker, or firefighter who is diagnosed with post-traumatic stress disorder within three years of the last active date of employment as a police officer, rescue or ambulance worker, or firefighter shall be eligible for benefits under this subdivision (11).

(iii) As used in this subdivision (11)(I):

(I) "Firefighter" means a firefighter as defined in 20 V.S.A. § 3151(3) and (4).

(II) "Mental health professional" means a person with professional training, experience, and demonstrated competence in the treatment and diagnosis of mental conditions, who is certified or licensed by this State to provide mental health care services and for whom diagnoses of mental conditions are within his or her scope of practice, including a physician, nurse with recognized psychiatric specialties, psychologist, clinical social worker, mental health counselor, or alcohol or drug abuse counselor.

(III) "Police officer" means a law enforcement officer who has been certified by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. chapter 151.

(IV) "Rescue or ambulance worker" means ambulance service, emergency medical personnel, first responder service, and volunteer personnel as defined in 24 V.S.A. § 2651.

(J)(i) A mental condition resulting from a work-related event or work-related stress shall be considered a personal injury by accident arising out of and in the course of employment and be compensable if it is demonstrated by the preponderance of the evidence that:

(I) the work-related event or work-related stress was extraordinary and unusual in comparison to pressures and tensions experienced by the average employee across all occupations; and

(II) the work-related event or work-related stress, and not some other event or source of stress, was the predominant cause of the mental condition.

(ii) A mental condition shall not be considered a personal injury by accident arising out of and in the course of employment if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by the employer.

\* \* \*

*Sec. 1a. EMERGENCY PERSONNEL POST-TRAUMATIC STRESS*

*DISORDER; STUDY OF EXPERIENCE AND COSTS; REPORT*

(a) The Commissioner of Labor, in consultation with the Secretary of Administration, the Commissioner of Financial Regulation, the Vermont League of Cities and Towns, and the National Council on Compensation Insurance, shall examine claims for workers' compensation made pursuant to

21 V.S.A. § 601(11)(I) and (J) between July 1, 2017 and January 1, 2020,  
including:

(1) the number of claims made;

(2) the cost of the workers compensation benefits provided for those  
claims; and

(3) any changes in administrative and premium costs associated with  
those claims.

(b) On or before January 15 of each year from 2018 through 2020, the  
Commissioner shall report to the House Committees on Appropriations, on  
Commerce and Economic Development, and on Health Care, and the Senate  
Committees on Appropriations, on Finance, and on Health and Welfare  
regarding its findings and any recommendations for legislative changes.

*Sec. 2. EFFECTIVE DATE*

This act shall take effect on July 1, 2017.