

Representative Karen Kwan proposes the following substitute bill:

MENTAL HEALTH PROTECTIONS FOR FIRST RESPONDERS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Kwan

Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill establishes a working group to study a first responder's workers' compensation claim due to mental stress.

Highlighted Provisions:

This bill:

- defines "first responder"; and
- establishes a temporary working group to study 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

63I-2-234, as last amended by Laws of Utah 2017, Chapter 116

ENACTS:

34A-2-107.2, Utah Code Annotated 1953



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

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

34A-2-102. Definition of terms.

(1) As used in this chapter:

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

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

(i) an injured employee; or

(ii) a dependent of a deceased employee.

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

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

(A) an administrative law judge; or

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

(I) the commissioner; or

(II) the Appeals Board.

(ii) "Decision" includes:

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

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

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

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

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

(h) "First responder" means:

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

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

57 (iii) an advanced emergency medical technician, as defined in Section 26-8c-102;

58 (iv) a paramedic, as defined in Section 26-8c-102;

59 (v) a firefighter, as defined in Section 34A-3-113; or

60 (vi) a dispatcher, as defined in Section 53-6-102.

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

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

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

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

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

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

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

77 (b) "Child" includes:

78 (i) a posthumous child; or

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

80 Section 2. Section **34A-2-107.2** is enacted to read:

81 **34A-2-107.2. Mental Health Protections for First Responders Workgroup.**

82 (1) There is created the Mental Health Protections for First Responders Workgroup
83 within the commission consisting of the following members:

84 (a) the commissioner or the commissioner's designee;

85 (b) one member of the Senate, appointed by the president of the Senate, and one
86 member of the House, appointed by the speaker of the House;

87 (c) three representatives of the workers' compensation insurance industry appointed by

88 the chair, one of whom is a voting member of the employer side of the Workers' Compensation
 89 Advisory Council, as follows:

90 (i) one member representing the insurance carrier designated to write coverage for the
 91 residual market;

92 (ii) one member representing an insurance carrier other than the carrier described in
 93 Subsection (1)(c)(i); and

94 (iii) one member representing self-insured employers ~~to~~, which may be a representative
 94a from the Utah Association of Counties ~~;~~ ;

95 (d) one member representing the Division of Risk Management;

96 (e) four representatives of first responders appointed by the chair, ~~one~~ two ~~of~~ of
 96a whom ~~is a~~ are ~~of~~ of

97 voting ~~member~~ members ~~of~~ of the employee side of the Workers' Compensation Advisory
 97a Council;

98 (f) one representative from the Utah League of Cities and Towns;

99 (g) one representative from the Utah Association of Special Districts;

100 (h) the director of the Division of Substance Abuse and Mental Health, or the director's
 101 designee; ~~and~~

101a (i) one representative who is a voting member of the Workers' Compensation Advisory
 101b Council and who represents private employers; and ~~of~~

102 (1) as appointed by the chair, one or more individuals with expertise in mental stress or
 103 occupational medicine to serve as ex officio, nonvoting members of the workgroup.

104 (2) The commissioner or the commissioner's designee is the chair of the workgroup.

105 (3) (a) A majority of the members of the workgroup constitutes a quorum.

106 (b) The action of a majority of a quorum constitutes the action of the workgroup.

107 (4) (a) The salary and expenses of each member of the workgroup who is a legislator
 108 shall be paid in accordance with Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative
 109 Compensation and Expenses.

110 (b) A member of the workgroup who is not a legislator may not receive compensation,
 111 benefits, per diem, or travel expenses for the member's service on the workgroup.

112 (5) The commission shall provide staff support to the workgroup.

113 (6) The workgroup shall review and make recommendations on the following issues:

114 (a) the alleviation of barriers, including financial barriers, to mental health treatment
 115 for first responders inside and outside of the workers' compensation system;

116 (b) statutory requirements for compensability of mental stress claims from first
 117 responders under Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational
 118 Disease Act;

119 (c) improving a first responder's accessibility to mental health treatment; and

120 (d) any additional issue that the workgroup:

121 (i) determines is an important issue related to workers' compensation for first
122 responders; and

123 (ii) decides to review.

124 (7) The workgroup shall present a final report on the items described in Subsection (6),
125 including any legislative recommendations, to the Business and Labor Interim Committee on or
126 before September 30, 2019.

127 Section 3. Section **63I-2-234** is amended to read:

128 **63I-2-234. Repeal dates -- Title 34A.**

129 (1) Section [34A-2-107.1](#) is repealed November 30, 2017.

130 (2) Section [34A-2-107.2](#) is repealed January 1, 2020.