

AMENDMENTS TO LB963

Introduced by Business and Labor.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 48-101.01, Revised Statutes Cumulative
4 Supplement, 2018, is amended to read:

5 48-101.01 (1) The Legislature finds and declares:

6 (a) The occupations of first responders are recognized as stressful
7 occupations. Only our nation's combat soldiers endure more stress.
8 Similar to military personnel, first responders face unique and uniquely
9 dangerous risks in their sworn mission to keep the public safe. They rely
10 on each other for survival to protect the communities they serve;

11 (b) On any given day, first responders can be called on to make life
12 and death decisions, witness a young child dying with the child's grief-
13 stricken family, make a decision that will affect a community member for
14 the rest of such person's life, or be exposed to a myriad of communicable
15 diseases and known carcinogens;

16 (c) On any given day, first responders protect high-risk individuals
17 from themselves and protect the community from such individuals;

18 (d) First responders are constantly at significant risk of bodily
19 harm or physical assault while they perform their duties;

20 (e) Constant, cumulative exposure to horrific events make first
21 responders uniquely susceptible to the emotional and behavioral impacts
22 of job-related stressors;

23 (f) Trauma-related injuries can become overwhelming and manifest in
24 post-traumatic stress, which may result in substance use disorders and
25 even, tragically, suicide; and

26 (g) It is imperative for society to recognize occupational injuries
27 related to post-traumatic stress and to promptly seek diagnosis and

1 treatment without stigma. This includes recognizing that mental injury
2 and mental illness as a result of trauma is not disordered, but is a
3 normal and natural human response to trauma, the negative effects of
4 which can be ameliorated through diagnosis and effective treatment.

5 (2) ~~(1)~~ Personal injury includes mental injuries and mental illness
6 unaccompanied by physical injury for an employee who is a first responder
7 or frontline state employee if such first responder or frontline state
8 employee:

9 (a) Establishes, ~~by a preponderance of the evidence,~~ that the
10 employee's employment conditions causing the mental injury or mental
11 illness were extraordinary and unusual in comparison to the normal
12 conditions of the particular employment; and

13 (b) Establishes, through a mental health professional ~~by a~~
14 ~~preponderance of the evidence,~~ the medical causation between the mental
15 injury or mental illness and the employment conditions by medical
16 evidence.

17 (3) The employee bears the burden of establishing the matters
18 described in subsection (2) of this section by a preponderance of the
19 evidence.

20 (4) A first responder may establish prima facie evidence of a
21 personal injury that is a mental injury or mental illness if the first
22 responder:

23 (a) Presents evidence that the first responder underwent a mental
24 health examination upon entry into such service or subsequent to such
25 entry and before the onset of the mental injury or mental illness and
26 such examination did not reveal the mental injury or mental illness for
27 which the first responder seeks compensation;

28 (b) Presents testimony or an affidavit from a mental health
29 professional stating the first responder suffers from a mental injury or
30 mental illness caused by one or more events or series of events which
31 cumulatively produced the mental injury or mental illness which brought

1 about the need for medical attention and the interruption of employment;

2 (c) Presents evidence that such events or series of events arose out
3 of and in the course of the first responder's employment; and

4 (d) Presents evidence that, prior to the employment conditions which
5 caused the mental injury or mental illness, the first responder had
6 participated in resilience training and updated the training at least
7 annually thereafter.

8 (5) (2) For purposes of this section, mental injuries and mental
9 illness arising out of and in the course of employment unaccompanied by
10 physical injury are not considered compensable if they result from any
11 event or series of events which are incidental to normal employer and
12 employee relations, including, but not limited to, personnel actions by
13 the employer such as disciplinary actions, work evaluations, transfers,
14 promotions, demotions, salary reviews, or terminations.

15 (6)(a) The Department of Health and Human Services shall reimburse a
16 first responder for the cost of annual resilience training not reimbursed
17 by the first responder's employer. The department shall pay reimbursement
18 at a rate determined by the Critical Incident Stress Management Program
19 under section 71-7104. Reimbursement shall be subject to the annual limit
20 set by such program under section 71-7104.

21 (b) To obtain reimbursement under this subsection, a first responder
22 shall submit an application to the Department of Health and Human
23 Services on a form and in a manner prescribed by the department.

24 (7) The Department of Health and Human Services shall maintain and
25 annually update records of first responders who have completed annual
26 resilience training.

27 (8) (3) For purposes of this section:

28 (a) First responder means a sheriff, a deputy sheriff, a police
29 officer, an officer of the Nebraska State Patrol, a volunteer or paid
30 firefighter, or a volunteer or paid individual licensed under a licensure
31 classification in subdivision (1) of section 38-1217 who provides medical

1 care in order to prevent loss of life or aggravation of physiological or
2 psychological illness or injury;

3 (b) Frontline state employee means an employee of the Department of
4 Correctional Services or the Department of Health and Human Services
5 whose duties involve regular and direct interaction with high-risk
6 individuals;

7 (c) High-risk individual means an individual in state custody for
8 whom violent or physically intimidating behavior is common, including,
9 but not limited to, a committed offender as defined in section 83-170, a
10 patient at a regional center as defined in section 71-911, and a juvenile
11 committed to the Youth Rehabilitation and Treatment Center-Kearney or the
12 Youth Rehabilitation and Treatment Center-Geneva; ~~and~~

13 (d) Mental health professional means:

14 (i) A practicing physician licensed to practice medicine in this
15 state under the Medicine and Surgery Practice Act;

16 (ii) A practicing psychologist licensed to engage in the practice of
17 psychology in this state as provided in section 38-3111 or as provided in
18 similar provisions of the Psychology Interjurisdictional Compact; or

19 (iii) A person licensed as a mental health practitioner under the
20 Mental Health Practice Act;

21 (e) Resilience training means training that meets the guidelines
22 established by the Critical Incident Stress Management Program under
23 section 71-7104 and that teaches how to adapt to, manage, and recover
24 from adversity, trauma, tragedy, threats, or significant sources of
25 stress; and

26 (f) ~~(d)~~ State custody means under the charge or control of a state
27 institution or state agency and includes time spent outside of the state
28 institution or state agency.

29 Sec. 2. Section 71-7104, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 71-7104 There is hereby created the Critical Incident Stress

1 Management Program. The focus of the program shall be to minimize the
2 harmful effects of critical incident stress for emergency service
3 personnel, with a high priority on confidentiality and respect for the
4 individuals involved. The program shall:

5 (1) Provide a stress management session to emergency service
6 personnel who appropriately request such assistance in an effort to
7 address critical incident stress;

8 (2) Assist in providing the emotional and educational support
9 necessary to ensure optimal functioning of emergency service personnel;

10 (3) Conduct preincident educational programs to acquaint emergency
11 service personnel with stress management techniques;

12 (4) Promote interagency cooperation;~~and~~

13 (5) Provide an organized statewide response to the emotional needs
14 of emergency service personnel impacted by critical incidents; -

15 (6) Develop guidelines for resilience training for first responders
16 under section 48-101.01;

17 (7) Set reimbursement rates for resilience training under section
18 48-101.01; and

19 (8) Set an annual limit on the hours or quantity of resilience
20 training for which reimbursement is required under section 48-101.01.

21 Sec. 3. Original section 71-7104, Reissue Revised Statutes of
22 Nebraska, and section 48-101.01, Revised Statutes Cumulative Supplement,
23 2018, are repealed.