

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 17-0607.02 Kristen Forrestal x4217

HOUSE BILL 17-1229

HOUSE SPONSORSHIP

Singer and Becker J., Ginal, Arndt, Liston, Lawrence

SENATE SPONSORSHIP

Cooke and Todd,

House Committees

Public Health Care & Human Services

Senate Committees

Business, Labor, & Technology

A BILL FOR AN ACT

101 **CONCERNING A CLARIFICATION OF WHEN A WORKER MAY BE**
102 **COMPENSATED FOR A CLAIM OF MENTAL IMPAIRMENT FOR A**
103 **PSYCHOLOGICALLY TRAUMATIC EVENT UNDER WORKERS'**
104 **COMPENSATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill adds the definitions "psychologically traumatic event" and "serious bodily injury" to the workers' compensation statutes for the purposes of clarifying a worker's right to compensation for any claim of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
April 19, 2017

SENATE
2nd Reading Unamended
April 18, 2017

HOUSE
3rd Reading Unamended
March 27, 2017

HOUSE
2nd Reading Unamended
March 24, 2017

mental impairment.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 8-41-301, **amend**
3 (2)(a); **repeal** (2)(a.5); and **add** (3) as follows:

4 **8-41-301. Conditions of recovery - definitions.** (2) (a) A claim
5 of mental impairment must be proven by evidence supported by the
6 testimony of a licensed ~~physician~~ PSYCHIATRIST or psychologist. ~~For~~
7 ~~purposes of this subsection (2), "mental impairment" means a recognized,~~
8 ~~permanent disability arising from an accidental injury arising out of and~~
9 ~~in the course of employment when the accidental injury involves no~~
10 ~~physical injury and consists of a psychologically traumatic event that is~~
11 ~~generally outside of a worker's usual experience and would evoke~~
12 ~~significant symptoms of distress in a worker in similar circumstances. A~~
13 mental impairment shall not be considered to arise out of and in the
14 course of employment if it results from a disciplinary action, work
15 evaluation, job transfer, lay-off, demotion, promotion, termination,
16 retirement, or similar action taken in good faith by the employer. The
17 mental impairment that is the basis of the claim ~~shall~~ MUST have arisen
18 primarily from the claimant's then occupation and place of employment
19 in order to be compensable.

20 ~~(a.5) For purposes of this subsection (2), "mental impairment"~~
21 ~~also includes a disability arising from an accidental physical injury that~~
22 ~~leads to a recognized permanent psychological disability.~~

23 (3) FOR THE PURPOSES OF THIS SECTION:

24 (a) "MENTAL IMPAIRMENT" MEANS A RECOGNIZED, PERMANENT
25 DISABILITY ARISING FROM AN ACCIDENTAL INJURY ARISING OUT OF AND IN

1 THE COURSE OF EMPLOYMENT WHEN THE ACCIDENTAL INJURY INVOLVES
2 NO PHYSICAL INJURY AND CONSISTS OF A PSYCHOLOGICALLY TRAUMATIC
3 EVENT. "MENTAL IMPAIRMENT" ALSO INCLUDES A DISABILITY ARISING
4 FROM AN ACCIDENTAL PHYSICAL INJURY THAT LEADS TO A RECOGNIZED
5 PERMANENT PSYCHOLOGICAL DISABILITY.

6 (b) (I) "PSYCHOLOGICALLY TRAUMATIC EVENT" MEANS AN EVENT
7 THAT IS GENERALLY OUTSIDE OF A WORKER'S USUAL EXPERIENCE AND
8 WOULD EVOKE SIGNIFICANT SYMPTOMS OF DISTRESS IN A WORKER IN
9 SIMILAR CIRCUMSTANCES.

10 (II) "PSYCHOLOGICALLY TRAUMATIC EVENT" ALSO INCLUDES AN
11 EVENT THAT IS WITHIN A WORKER'S USUAL EXPERIENCE ONLY WHEN THE
12 WORKER IS DIAGNOSED WITH POST-TRAUMATIC STRESS DISORDER BY A
13 LICENSED PSYCHIATRIST OR PSYCHOLOGIST AFTER THE WORKER
14 EXPERIENCED EXPOSURE TO ONE OR MORE OF THE FOLLOWING EVENTS:

15 (A) THE WORKER IS THE SUBJECT OF AN ATTEMPT BY ANOTHER
16 PERSON TO CAUSE THE WORKER SERIOUS BODILY INJURY OR DEATH
17 THROUGH THE USE OF DEADLY FORCE, AND THE WORKER REASONABLY
18 BELIEVES THE WORKER IS THE SUBJECT OF THE ATTEMPT;

19 (B) THE WORKER VISUALLY WITNESSES A DEATH, OR THE
20 IMMEDIATE AFTERMATH OF THE DEATH, OF ONE OR MORE PEOPLE AS THE
21 RESULT OF A VIOLENT EVENT; OR

22 (C) THE WORKER REPEATEDLY VISUALLY WITNESSES THE SERIOUS
23 BODILY INJURY, OR THE IMMEDIATE AFTERMATH OF THE SERIOUS BODILY
24 INJURY, OF ONE OR MORE PEOPLE AS THE RESULT OF INTENTIONAL ACT OF
25 ANOTHER PERSON OR AN ACCIDENT.

26 (c) "SERIOUS BODILY INJURY" MEANS BODILY INJURY THAT, EITHER
27 AT THE TIME OF THE ACTUAL INJURY OR A LATER TIME, INVOLVES A

1 SUBSTANTIAL RISK OF DEATH, A SUBSTANTIAL RISK OF SERIOUS
2 PERMANENT DISFIGUREMENT, OR A SUBSTANTIAL RISK OF PROTRACTED
3 LOSS OR IMPAIRMENT OF THE FUNCTION OF ANY PART OR ORGAN OF THE
4 BODY.

5 **SECTION 2. Act subject to petition - effective date -**
6 **applicability.** (1) This act takes effect July 1, 2018; except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within the ninety-day period after final adjournment of the general
10 assembly, then the act, item, section, or part will not take effect unless
11 approved by the people at the general election to be held in November
12 2018 and, in such case, will take effect on the date of the official
13 declaration of the vote thereon by the governor.

14 (2) This act applies to injuries sustained on or after the applicable
15 effective date of this act.