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State: Fla.

Pulse Shootings Inspire PTSD Presumption Legislation: Top [2017-03-08]

Bills to provide a PTSD presumption for first responders and to shield the names of claimants from the public — especially attorneys — were introduced Tuesday on the opening day of the Florida Legislature’s 2017 session.



Sen. Keith Perry

[Senate Bill 516](#), by Sen. Keith Perry, R-Gainesville, proposes mental or nervous injuries suffered by first responders would be compensable, whether or not accompanied by a physical injury that requires medical treatment.

A licensed psychiatrist would be required to demonstrate by “clear and convincing medical evidence” that post-traumatic stress disorder meets the criteria as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

A first responder would include a law enforcement officer, firefighter, emergency medical technician or paramedic.

Rep. Mike Miller, R-Winter Park, has proposed [House Bill 1019](#), which is virtually identical to SB 516.

[SB 1088](#), also introduced Tuesday and calling for a PTSD presumption, would replace “clear and convincing” with a “preponderance” of evidence and would remove the current limitation that medical benefits are payable for mental or nervous injury unaccompanied by a physical injury.

Sen. Victor Torres, D-Orlando, who retired as a detective after 20 years with the New York City Transit Police Department, is sponsoring SB 1088.

The bills are a direct reaction to the Pulse nightclub shootings that left 49 people dead and nearly 70 others injured in Orlando last June 12.

Maitland claimants’ attorney Paolo Longo has been calling for a bill like the one Torres introduced.

He said the Perry bill does not go far enough. Longo is representing Orlando police Officer Gerry Realin, who has two active workers' compensation petitions filed with the Office of Judges of Compensation Claims.

Realin was part of an eight-member hazmat team that bagged and helped remove bodies after the Pulse nightclub shootings. His first petition lists an accident date of June 12, the day the Pulse shootings occurred, and claims PTSD and hypertension.

Realin filed a second petition for benefits on July 19, alleging Realin suffers from "disabling arterial and cardiovascular hypertension and/or heart disease."

Judge Neal Pitts, who is presiding over both cases, has scheduled a mediation hearing for May 9, a trial conference June 19 and a final hearing July 21.

Realin's wife, Jessica, told [WorkCompCentral](#) on Sept. 15 that her husband has bachelor's degrees in molecular biology and microbiology, and worked as a scientist for Austrian-based Greiner Bio-One International before joining the Orlando Police Department nearly 13 years ago. He was inspired by the Nicholas Cage character, a scientist who helps stop a biochemical attack, in the movie "The Rock," she said.

Jessica Realin said her husband immediately broke down after arriving home from Pulse.

"He looked like he had seen a ghost," she said. "He can't get the smell out of his nose. It just invaded all of him, the smell, the sights, everything."

Also introduced Tuesday was [SB 1008](#), a Perry bill that would exempt from public records any personal identifying information of injured workers or those killed on the job.

Longo and Winter Park defense attorney Rogers Turner surmise that SB 1008 is aimed at making it more difficult for lawyers, telemedicine firms and vendors of compounded creams to find injured workers.

Longo and Miami claimants' attorney Mark Zientz said they have no problem with the bill and do not mine Division of Workers' Compensation records for clients.

"My clients get solicitation letters all the time from lawyers and although I won't ever begrudge a man from earning a living, I am not a big fan of lawyer solicitations," Longo said.

Said Turner: "I personally would be skeptical if eliminating initial attorney contact via that method would result in reduced litigation, just based on the amount of billboard, print and media advertising that is out there."

Perry did not return a telephone call and email seeking comment.

His bill states that disclosure of "such sensitive, personal information about an injured or deceased employee is an invasion of that employee's privacy or the privacy of a deceased employee's family. Further, the release of such information could lead to discrimination against the employee by coworkers, potential employers and others."

The Property Casualty Insurers Association of America had no comment on SB 516 and was still analyzing the impact of SB 1008.

"On the one hand, PCI appreciates the importance of protecting the privacy of injured workers and their families by shielding them from unwanted solicitations," said Logan McFaddin, state government relations manager for the Southeast region. "On the other hand, this level of confidentiality may hinder the ability of employers and their carriers to be able to fully investigate claims."

AIA supports SB 1008, said Southeast Region Vice President Ron Jackson.

“It’s proven to be an absolute fishing expedition undertaken by the trial lawyers,” he said of workers’ personal information, which currently can be obtained through an open records request.

“It’s aiding trial lawyers in reaching for business and increasing litigation, which would increase system costs and slow down the treatment these workers need and the payment of claims,” Jackson said.

[SB 1582](#) was prefiled Friday, but had not been officially introduced as of late Tuesday. It would overhaul the state’s entire workers’ compensation rate-making process by converting Florida into a loss-cost state and would also limit defense attorney profits while paving the way for higher claimants’ attorney fees.