

Introduced by

Senators Rummel, Cleary, Hogue

Representatives Lefor, Ista

1 A BILL for an Act to create and enact a new section to chapter 65-05 of the North Dakota
2 Century Code, relating to posttraumatic stress disorder duration limits; to amend and reenact
3 subsection 11 of section 65-01-02 of the North Dakota Century Code, relating to workers'
4 compensation coverage for posttraumatic stress disorder; to provide for application; and to
5 provide an expiration date.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Subsection 11 of section 65-01-02 of the North Dakota Century
8 Code, as effective through August 31, 2028, is amended and reenacted as follows:

9 11. "Compensable injury" means an injury by accident arising out of and in the course of
10 hazardous employment which must be established by medical evidence supported by
11 objective medical findings.

12 a. The term includes:

13 (1) Disease caused by a hazard to which an employee is subjected in the
14 course of employment. The disease must be incidental to the character of
15 the business and not independent of the relation of employer and employee.
16 Disease includes effects from radiation.

17 (2) An injury to artificial members.

18 (3) Injuries due to heart attack or other heart-related disease, stroke, and
19 physical injury caused by mental stimulus, but only when caused by the
20 employee's employment with reasonable medical certainty, and only when it
21 is determined with reasonable medical certainty that unusual stress is at
22 least fifty percent of the cause of the injury or disease as compared with all
23 other contributing causes combined. Unusual stress means stress greater

1 than the highest level of stress normally experienced or anticipated in that
2 position or line of work.

3 (4) Injuries arising out of employer-required or supplied travel to and from a
4 remote jobsite or activities performed at the direction or under the control of
5 the employer.

6 (5) An injury caused by the willful act of a third person directed against an
7 employee because of the employee's employment.

8 (6) A mental or psychological condition caused by a physical injury, but only
9 when the physical injury is determined with reasonable medical certainty to
10 be at least fifty percent of the cause of the condition as compared with all
11 other contributing causes combined, and only when the condition did not
12 pre-exist the work injury.

13 (7) Posttraumatic stress disorder, if the injured employee establishes by a
14 preponderance of the evidence that the condition causing the posttraumatic
15 stress disorder was extraordinary, based on unusual stress of a greater
16 dimension than the day-to-day emotional strain and tension experienced by
17 similarly situated employees.

18 (a) The mental injury must be:

19 [1] Diagnosed by a licensed psychiatrist or psychologist;

20 [2] Meet the criteria established in the "Diagnostic and Statistical
21 Manual of Mental Disorders", American psychiatric association,
22 (5th edition, text revision 2022);

23 [3] Determined not to pre-exist the employment event; and

24 [4] Determined with reasonable medical certainty to be at least fifty
25 percent of the cause as compared to all other contributing
26 causes combined.

27 (b) The mental injury may not be the result of any of the following actions
28 taken in good faith by an employer:

29 [1] A disciplinary action;

30 [2] A work evaluation;

31 [3] A job transfer;

- 1 [4] A layoff;
- 2 [5] A demotion; or
- 3 [6] A termination.

4 b. The term does not include:

- 5 (1) Ordinary diseases of life to which the general public outside of employment
6 is exposed or preventive treatment for communicable diseases, except the
7 organization may pay for preventive treatment for an exposure to a
8 bloodborne pathogen as defined in section 23-07.5-01 occurring in the
9 course of employment and for exposure to rabies occurring in the course of
10 employment.
- 11 (2) A willfully self-inflicted injury, including suicide or attempted suicide, or an
12 injury caused by the employee's willful intention to injure or kill another.
- 13 (3) Any injury caused by the use of intoxicants, including recreational marijuana
14 use, or the illegal use of controlled substances.
- 15 (4) An injury that arises out of an altercation in which the injured employee is an
16 aggressor. This paragraph does not apply to public safety employees,
17 including law enforcement officers or private security personnel who are
18 required to engage in altercations as part of their job duties if the altercation
19 arises out of the performance of those job duties.
- 20 (5) An injury that arises out of an illegal act committed by the injured employee.
- 21 (6) An injury that arises out of an employee's voluntary nonpaid participation in
22 any recreational activity, including athletic events, parties, and picnics, even
23 though the employer pays some or all of the cost of the activity.
- 24 (7) Injuries attributable to a pre-existing injury, disease, or other condition,
25 including when the employment acts as a trigger to produce symptoms in
26 the pre-existing injury, disease, or other condition unless the employment
27 substantially accelerates its progression or substantially worsens its
28 severity. Pain is a symptom and may be considered in determining whether
29 there is a substantial acceleration or substantial worsening of a pre-existing
30 injury, disease, or other condition, but pain alone is not a substantial
31 acceleration or a substantial worsening.

- 1 (8) A nonemployment injury that, although acting upon a prior compensable
2 injury, is an independent intervening cause of injury.
- 3 (9) A latent or asymptomatic degenerative condition, caused in substantial part
4 by employment duties, which is triggered or made active by a subsequent
5 injury.
- 6 (10) ~~A~~Except as otherwise provided in subdivision a, a mental injury arising from
7 mental stimulus.

8 **SECTION 2. AMENDMENT.** Subsection 11 of section 65-01-02 of the North Dakota Century
9 Code, as effective after August 31, 2028, is amended and reenacted as follows:

10 11. "Compensable injury" means an injury by accident arising out of and in the course of
11 hazardous employment which must be established by medical evidence supported by
12 objective medical findings.

13 a. The term includes:

- 14 (1) Disease caused by a hazard to which an employee is subjected in the
15 course of employment. The disease must be incidental to the character of
16 the business and not independent of the relation of employer and employee.
17 Disease includes effects from radiation.
- 18 (2) An injury to artificial members.
- 19 (3) Injuries due to heart attack or other heart-related disease, stroke, and
20 physical injury caused by mental stimulus, but only when caused by the
21 employee's employment with reasonable medical certainty, and only when it
22 is determined with reasonable medical certainty that unusual stress is at
23 least fifty percent of the cause of the injury or disease as compared with all
24 other contributing causes combined. Unusual stress means stress greater
25 than the highest level of stress normally experienced or anticipated in that
26 position or line of work.
- 27 (4) Injuries arising out of employer-required or supplied travel to and from a
28 remote jobsite or activities performed at the direction or under the control of
29 the employer.
- 30 (5) An injury caused by the willful act of a third person directed against an
31 employee because of the employee's employment.

1 (6) A mental or psychological condition caused by a physical injury, but only
2 when the physical injury is determined with reasonable medical certainty to
3 be at least fifty percent of the cause of the condition as compared with all
4 other contributing causes combined, and only when the condition did not
5 pre-exist the work injury.

6 (7) Posttraumatic stress disorder, if the injured employee establishes by a
7 preponderance of the evidence that the condition causing the posttraumatic
8 stress disorder was extraordinary, based on unusual stress of a greater
9 dimension than the day-to-day emotional strain and tension experienced by
10 similarly situated employees.

11 (a) The mental injury must be:

12 [1] Diagnosed by a licensed psychiatrist or psychologist;

13 [2] Meet the criteria established in the "Diagnostic and Statistical
14 Manual of Mental Disorders", American psychiatric association,
15 (5th edition, text revision 2022)

16 [3] Determined not to pre-exist the employment event; and

17 [4] Determined with reasonable medical certainty to be at least fifty
18 percent of the cause as compared to all other contributing
19 causes combined.

20 (b) The mental injury may not be the result of any of the following actions
21 taken in good faith by an employer:

22 [1] A disciplinary action;

23 [2] A work evaluation;

24 [3] A job transfer;

25 [4] A layoff;

26 [5] A demotion; or

27 [6] A termination.

28 b. The term does not include:

29 (1) Ordinary diseases of life to which the general public outside of employment
30 is exposed or preventive treatment for communicable diseases, except the
31 organization may pay for preventive treatment for an exposure to a

- 1 bloodborne pathogen as defined in section 23-07.5-01 occurring in the
2 course of employment and for exposure to rabies occurring in the course of
3 employment.
- 4 (2) A willfully self-inflicted injury, including suicide or attempted suicide, or an
5 injury caused by the employee's willful intention to injure or kill another.
- 6 (3) Any injury caused by the use of intoxicants, including recreational marijuana
7 use, or the illegal use of controlled substances.
- 8 (4) An injury that arises out of an altercation in which the injured employee is an
9 aggressor. This paragraph does not apply to public safety employees,
10 including law enforcement officers or private security personnel who are
11 required to engage in altercations as part of their job duties if the altercation
12 arises out of the performance of those job duties.
- 13 (5) An injury that arises out of an illegal act committed by the injured employee.
- 14 (6) An injury that arises out of an employee's voluntary nonpaid participation in
15 any recreational activity, including athletic events, parties, and picnics, even
16 though the employer pays some or all of the cost of the activity.
- 17 (7) Injuries attributable to a pre-existing injury, disease, or other condition,
18 including when the employment acts as a trigger to produce symptoms in
19 the pre-existing injury, disease, or other condition unless the employment
20 substantially accelerates its progression or substantially worsens its
21 severity. Pain is a symptom and may be considered in determining whether
22 there is a substantial acceleration or substantial worsening of a pre-existing
23 injury, disease, or other condition, but pain alone is not a substantial
24 acceleration or a substantial worsening.
- 25 (8) A nonemployment injury that, although acting upon a prior compensable
26 injury, is an independent intervening cause of injury.
- 27 (9) A latent or asymptomatic degenerative condition, caused in substantial part
28 by employment duties, which is triggered or made active by a subsequent
29 injury.
- 30 (10) ~~A~~Except as otherwise provided in subdivision a, a mental injury arising from
31 mental stimulus.

1 **SECTION 3.** A new section to chapter 65-05 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Posttraumatic stress disorder duration limits.**

4 Disability benefits payable for posttraumatic stress disorder may not exceed:

5 1. Thirty-two weeks in duration from first report of injury; or

6 2. Two claims in an employee's lifetime.

7 **SECTION 4. APPLICATION.** This Act applies to injuries sustained on or after August 1,
8 2025.

9 **SECTION 5. EXPIRATION DATE.** This Act is effective through July 31, 2029, and after that
10 date is ineffective.