SENATE BILL 302

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Antoinette Sedillo Lopez

AN ACT

RELATING TO THE NEW MEXICO OCCUPATIONAL DISEASE DISABLEMENT LAW; REQUIRING POSTTRAUMATIC STRESS DISORDER TO BE PRESUMED TO BE CAUSED BY EMPLOYMENT FOR EDUCATIONAL EMPLOYEES; PROVIDING EXCEPTIONS; ESTABLISHING BURDEN OF PROOF FOR DEFENSES; REQUIRING WORKERS' COMPENSATION REIMBURSEMENT IN CERTAIN SITUATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the New Mexico Occupational Disease Disablement Law is enacted to read:

"[NEW MATERIAL] EDUCATIONAL EMPLOYEE OCCUPATIONAL DISEASE.--

A. As used in this section, "educational employee" means a licensed or unlicensed employee of a school district or a private school.

.218662.1
B. If an educational employee is diagnosed by a physician or psychologist with posttraumatic stress disorder that results in physical impairment, primary or secondary mental impairment or death, after the period of employment indicated, and there is no evidence that the posttraumatic stress disorder preexisted the employment, the posttraumatic stress disorder is presumed to be proximately caused by employment as an educational employee.

C. The presumption created in Subsection B of this section may be rebutted by a preponderance of evidence in a court of competent jurisdiction showing that the educational employee engaged in conduct or activities outside of employment that posed a significant risk of contracting or developing posttraumatic stress disorder.

D. When a presumption created in this section does not apply, it shall not preclude an educational employee from demonstrating a causal connection between employment and posttraumatic stress disorder by a preponderance of evidence in a court of competent jurisdiction.

E. Medical treatment based on the presumption created in this section shall be provided by an employer as for a job-related illness or injury unless and until a court of competent jurisdiction determines that the presumption does not apply. If the court determines that the presumption does not apply or that the posttraumatic stress disorder is not job-
related, the employer's workers' compensation insurance provider shall be reimbursed for health care costs by the medical or health insurance plan or benefit provided for the educational employee by the employer."