

1 SENATE BILL 562

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Antoinette Sedillo Lopez and Willie D. Madrid

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10 AN ACT

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

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

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

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

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

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

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

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

20           E. Medical treatment based on the presumption  
21 created in this section shall be provided by an employer as for  
22 a job-related illness or injury unless and until a court of  
23 competent jurisdiction determines that the presumption does not  
24 apply. If the court determines that the presumption does not  
25 apply or that the posttraumatic stress disorder is not job-

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1 related, the employer's workers' compensation insurance  
2 provider shall be reimbursed for health care costs by the  
3 medical or health insurance plan or benefit provided for the  
4 educational employee by the employer."

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