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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.

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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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