



MACRS
LEGAL PANEL

Violent Act Injury

Recent Legislative Changes



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FALL MACRS

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Introduction

- “Violent Act Injury” legislation passed in 2024: Chapter 149 of the Acts of 2024 (the “Old Act”).
- Intended to compensate the “worst of the worst” injuries with an enhanced disability benefit.
- Intentionally limited class of potentially eligible applicants.
- PERAC issued 2 Memos regarding “Violent Act Injury.”
- Tom Gibson gave a presentation on it at the Spring 2025 MACRS Conference.
- However, recent legislative changes require this presentation and the issuance of new Memos and forms in the upcoming weeks.

Questions/Concerns Regarding the Act

- Almost immediately, there were questions and concerns regarding the definition of “Violent Act Injury,” what is required to prove eligibility, and the scope of potentially eligible candidates.
- To help address these and other concerns, PERAC issued Memorandum #28 of 2024 in October of 2024.
 - Comprehensive Memo, detailing the new law, explaining what is required to prove eligibility, the class of potential candidates, and the enhanced benefits.
- For Violent Act Injury applications, PERAC updated its Member Application Form, the Treating Physician’s Statement, the Employer’s Statement, and the Medical Panel Certificates (see PERAC Memo #15 of 2025).
- Due to recent legislation, PERAC must issue a new memo and forms.

Recent Definition Change

- On November 25, 2025, the Legislature and the Governor passed Chapter 73 of the Acts of 2025 (the “New Act”):
- “Violent Act Injury” is now defined in G.L. c. 32, § 1 as:
 - A catastrophic **or** life-threatening ~~or life-altering~~ and permanent bodily injury sustained as a direct and proximate result of a violent attack upon a person by means of a dangerous weapon, which is **used in a manner intended to cause** ~~designed for the purpose of causing~~ serious injury or death, including, but not limited to, a firearm, knife, automobile or explosive device.

Eligibility Under the Old Act

- The Old Act inserted subsection (iv) into Section 7(2)(a), which provides, in pertinent part:
 - Notwithstanding clauses (i) to (iii), inclusive, a yearly amount of pension for any firefighter, any call, volunteer, auxiliary, intermittent or reserve firefighter, any call, volunteer, auxiliary, intermittent or reserve emergency medical services provider who is a member of a police or fire department and who is not subject to chapter 152, any police officer, any auxiliary, intermittent, special, part-time or reserve police officer or any municipal or public emergency medical technician or licensed health care professional...

Recent Expanded Eligibility – State Police (1)

- Section 22 of the New Act adds the following sentence to G.L. c. 32, Section 26(2)(a):
 - “This subdivision shall not apply to a member in service who is physically not able to perform the essential duties of the member’s job by reason of violent act injury.”

Recent Expanded Eligibility – State Police (2)

- Section 23 of the New Act inserts the following paragraph after G.L. c. 32, Section 26(2):
- “(2½) Section 7 shall apply to any member in service classified in Group 3 who is an officer of the department of state police if the rating board, after an examination of such officer by a registered physician appointed by it, reports in writing to the state board of retirement that such officer is physically incapacitated for the performance of duty by reason of violent act injury occurring during the performance and within the scope of the officer’s duty and without contributory negligence on the officer’s part, and that such incapacity is likely to be permanent.”

PERAC Memorandum #33/2025

- PERAC notified the retirement boards of these changes in Memo #33 of 2025
- Also noted that PERAC was in the process of editing the following forms to account for these changes:
 - The Member's Application
 - The Employer's Statement
 - The Treating Physician's Statement
 - Medical Panel Certificates
- Once the forms have been edited, PERAC will issue a new Memo with links to these forms

Violent Act Injury Requirements

- In order to qualify for a Violent Act Injury disability benefit, a member must demonstrate that all three of the following elements are established:
 - 1) They suffered a catastrophic or life-threatening permanent bodily injury;
 - 2) That the injury was the direct and proximate result of a violent attack upon a person, which means it must be intentional and not an accident; and
 - 3) That the attack was by means of a dangerous weapon used in a manner intended to cause serious injury or death.

Catastrophic or Life-Threatening

- Goes beyond being unable to perform the duties of one's job.
- Requires extensive functional deficits, where the medical recovery is expected to extend over a long or indefinite period of time.
- Injury usually involves multiple and/or complex medical conditions requiring various medical specialists.
- Injury significantly limits one's ability to complete activities of daily living (i.e., cooking, cleaning, bathing, driving, etc...).

Permanent Bodily Injury

- A member may sustain a life-threatening injury, but if it is only life-threatening for a short period of time, and not permanent, they are not eligible for the Violent Act Injury benefit.
- The word “bodily” requires that the injury sustained must be **physical** in nature.
- Thus, the Violent Act Injury does not encompass or include injuries that are psychological or emotional in nature.
 - PTSD, depression, anxiety, etc...

Violent Attack

- Must be an injury sustained by way of an intentional violent attack.
- The injury cannot be sustained due to negligence or be the result of an accident.
 - For example, someone who sustains a catastrophic injury as the result of a dynamite explosion may not be eligible for the Violent Act Injury benefit, if the dynamite was not ignited with the intent to injure someone.

Dangerous Weapon

- “... by means of a dangerous weapon, which is used in a manner intended to cause serious injury or death, including, but not limited to, a firearm, knife, automobile or explosive device.”
 - The problem with the old language, that the dangerous weapon must be “designed for the purpose of causing” serious injury or death, was that it omitted weapons of convenience (baseball bat, tire iron, brick, etc...).
 - Now, any item used as a weapon with the intent to seriously injure or kill may satisfy the Violent Act Injury definition.
 - The injury must be the result of an intentional attack: An injury caused by an automobile is not necessarily eligible for an enhanced benefit under the Violent Act Injury if the injury resulted from an accident.
 - Neither a closed fist, nor a shod foot meets the threshold.

PERAC's Rationale Regarding The Forms

- PERAC's forms now include optional sections to be completed by those applying for Violent Act Injury benefits.
- **Question:** Why did PERAC incorporate the Violent Act Injury questions into the existing forms, rather than create new forms for those applying for Violent Act Injury benefits?
- **Answer:** Because the Violent Act Injury questions are within the same form as the questions about incapacity, permanence and causation, an application may be denied for Violent Act Injury enhanced benefits but may be approved for a regular Accidental Disability Retirement.

Findings of Fact (1)

- Unlike the majority of Section 7 applications, Violent Act Injury applications **MUST** include Board Findings of Fact, which must be submitted to PERAC for its 30-day disability review process.
- The Board must find that:
 - The applicant sustained a catastrophic or life-threatening permanent bodily injury;
 - That was sustained as a direct and proximate result of a violent attack;
 - By means of a dangerous weapon, which was used in a manner intended to cause serious injury or death.

Findings of Fact (2)

- These findings of fact for a Violent Act Injury application are essential to ensure that the injury sustained qualifies for the enhanced benefits of this provision.
- Fact intensive process. The Board should include all information it relied upon in determining that the member met the eligibility criteria for Violent Act Injury benefits.
- Intent, in part, is to avoid frivolous applications, where the applicant clearly does not meet the eligibility criteria.
- A Board's failure to make findings of fact, or to make inadequate findings of fact, will result in a remand of the application.

Involuntary Applications Not Permitted

- PERAC will not process an involuntary application for Violent Act Injury Disability benefits.
- Violent Act Injury benefits are more enhanced than ADR benefits.
- Highly factual: need as much information as possible.
- Involuntary applications do not require a Treating Physician Statement, and usually only provide minimal medical records.
- If the member is on 111F, the employer can apply for a regular Involuntary Accidental Disability and, if the member believes he or she may qualify for Violent Act Disability, he or she may apply and the Involuntary Application can be withdrawn.

Unchanged Enhanced Benefits

- The enhanced benefits of the Violent Act Injury remain unchanged.
- Please see PERAC Memo #28/2024 for information regarding:
 - Enhanced benefit calculations
 - Lump sum payments
 - Beneficiary requirements
 - COLAs
 - Benefit changes upon reaching mandatory retirement age (when applicable)
 - Post-retirement earnings

Conclusion

- Although these changes have required PERAC to draft additional memos and edit existing forms, virtually everyone agrees that the changes in the Recent Act constitute improvements to the Violent Act Injury benefit.
- Remember, this is a fact specific inquiry, and providing details and documentation is essential for approval by PERAC.
- As this is a new and already amended benefit, PERAC will work with the retirement boards to ensure proper compliance.



QUESTIONS?

If you have any questions, please contact me at:
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