

HB 1191

2009

1                   A bill to be entitled  
 2           An act relating to claims by law enforcement and  
 3           correctional officers; amending s. 112.18, F.S.; providing  
 4           conditions under which a law enforcement officer,  
 5           correctional officer, or correctional probation officer  
 6           who suffers from a specified medical condition and has  
 7           materially departed from the prescribed treatment for that  
 8           condition shall lose a specified presumption for claims  
 9           made after a specified date; defining the term "prescribed  
 10          course of treatment"; providing for second medical  
 11          opinions in certain situations; providing that only claims  
 12          made before leaving employment are eligible for a  
 13          specified presumption; providing an effective date.

14  
 15 Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1. Section 112.18, Florida Statutes, is amended to  
 18           read:

19           112.18 Firefighters and law enforcement or correctional  
 20           officers; special provisions relative to disability.--

21           (1) (a) Any condition or impairment of health of any  
 22           Florida state, municipal, county, port authority, special tax  
 23           district, or fire control district firefighter or any law  
 24           enforcement officer, ~~or~~ correctional officer, or correctional  
 25           probation officer as defined in s. 943.10(1), (2), or (3) caused  
 26           by tuberculosis, heart disease, or hypertension resulting in  
 27           total or partial disability or death shall be presumed to have  
 28           been accidental and to have been suffered in the line of duty

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29 unless the contrary be shown by competent evidence. However, any  
30 such firefighter or law enforcement officer shall have  
31 successfully passed a physical examination upon entering into  
32 any such service as a firefighter or law enforcement officer,  
33 which examination failed to reveal any evidence of any such  
34 condition. Such presumption shall not apply to benefits payable  
35 under or granted in a policy of life insurance or disability  
36 insurance, unless the insurer and insured have negotiated for  
37 such additional benefits to be included in the policy contract.

38 (b) For any claim occurring after July 1, 2009, a law  
39 enforcement officer, correctional officer, or correctional  
40 probation officer as defined in s. 943.10(1), (2), or (3)  
41 suffering from tuberculosis, heart disease, or hypertension is  
42 presumed not to have incurred such disease in the line of duty  
43 as provided in this section if the law enforcement officer,  
44 correctional officer, or correctional probation officer:

45 1. Departed in a material fashion from the prescribed  
46 course of treatment of his or her personal physician and the  
47 departure is demonstrated to have resulted in an aggravation of  
48 the tuberculosis, heart disease, or hypertension resulting in  
49 disability or increasing the disability or need for medical  
50 treatment; or

51 2. Was previously compensated pursuant to this section and  
52 chapter 440 for tuberculosis, heart disease, or hypertension and  
53 thereafter sustains and reports a new compensable workers'  
54 compensation claim under this section and chapter 440 and the  
55 law enforcement officer, correctional officer, or correctional  
56 probation officer has departed in a material fashion from the

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57 prescribed course of treatment of an authorized physician for  
58 the preexisting workers' compensation claim and the departure is  
59 demonstrated to have resulted in an aggravation of the  
60 tuberculosis, heart disease, or hypertension resulting in  
61 disability or increasing the disability or need for medical  
62 treatment.

63 (c) As used in this subsection, "prescribed course of  
64 treatment" means prescribed medical courses of action and  
65 prescribed medicines for the specific disease or diseases  
66 claimed and as documented in the prescribing physician's medical  
67 records.

68 (d) If there is a dispute as to the appropriateness of the  
69 course of treatment prescribed by a physician under subparagraph  
70 (b)1. or subparagraph (b)2. or whether a departure in a material  
71 fashion from the prescribed course of treatment is demonstrated  
72 to have resulted in an aggravation of the tuberculosis, heart  
73 disease, or hypertension resulting in disability or increasing  
74 the disability or need for medical treatment, the law  
75 enforcement officer, correctional officer, or correctional  
76 probation officer is entitled to seek a second opinion from a  
77 physician pursuant to the independent medical examination  
78 procedure provided in s. 440.13(5).

79 (e) A law enforcement officer, correctional officer, or  
80 correctional probation officer is not entitled to the  
81 presumption provided in this section unless a claim for benefits  
82 is made prior to leaving the employment of the employing agency.

83 (2) This section authorizes each governmental entity  
84 specified in subsection (1) shall be construed to authorize the

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85 ~~above governmental entities~~ to negotiate policy contracts for  
86 life and disability insurance to include accidental death  
87 benefits or double indemnity coverage which includes ~~shall~~  
88 ~~include~~ the presumption that any condition or impairment of  
89 health of any firefighter, law enforcement officer, or  
90 correctional officer caused by tuberculosis, heart disease, or  
91 hypertension resulting in total or partial disability or death  
92 was accidental and suffered in the line of duty, unless the  
93 contrary be shown by competent evidence.

94 Section 2. This act shall take effect July 1, 2009.