

By Senator Oelrich

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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.;  
 4           providing conditions under which a law enforcement  
 5           officer, correctional officer, or correctional  
 6           probation officer who suffers from a specified medical  
 7           condition and has materially departed from the  
 8           prescribed treatment for that condition shall lose a  
 9           specified presumption for claims made after a  
 10          specified date; defining the term "prescribed course  
 11          of treatment"; providing for second medical opinions  
 12          in certain situations; providing that only claims made  
 13          before leaving employment are eligible for a specified  
 14          presumption; providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

84 (2) This section authorizes each governmental entity  
85 specified in subsection (1) ~~shall be construed to authorize the~~  
86 ~~above governmental entities~~ to negotiate policy contracts for  
87 life and disability insurance to include accidental death

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88 benefits or double indemnity coverage which includes ~~shall~~  
89 ~~include~~ the presumption that any condition or impairment of  
90 health of any firefighter, law enforcement officer, or  
91 correctional officer caused by tuberculosis, heart disease, or  
92 hypertension resulting in total or partial disability or death  
93 was accidental and suffered in the line of duty, unless the  
94 contrary be shown by competent evidence.

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