

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 on or after a specified date; defining the term  
 10          "prescribed course of treatment"; providing for second  
 11          medical opinions in certain situations; providing that  
 12          only claims made before leaving employment are eligible  
 13          for a 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

29 unless the contrary be shown by competent evidence. However, any  
 30 such firefighter or law enforcement officer must ~~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 does ~~shall~~ not apply to benefits  
 35 payable under or granted in a policy of life insurance or  
 36 disability insurance, unless the insurer and insured have  
 37 negotiated for such additional benefits to be included in the  
 38 policy contract.

39 (b) For any claim occurring on or after July 1, 2010, a  
 40 law 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 a significant  
 49 aggravation of the tuberculosis, heart disease, or hypertension  
 50 resulting in disability or increasing the disability or need for  
 51 medical 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

HB 123

2010

57 probation officer has departed in a material fashion from the  
58 prescribed course of treatment of an authorized physician for  
59 the preexisting workers' compensation claim and the departure is  
60 demonstrated to have resulted in a significant aggravation of  
61 the 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 a significant aggravation of the  
74 tuberculosis, heart disease, or hypertension resulting in  
75 disability or increasing the disability or need for medical  
76 treatment, the law enforcement officer, correctional officer, or  
77 correctional probation officer is entitled to seek a second  
78 opinion from a physician pursuant to the procedure for an  
79 independent medical examination 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.

HB 123

2010

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

95           Section 2. This act shall take effect July 1, 2010.