

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 workers'
 9 compensation claims made on or after a specified date;
 10 defining the term "prescribed course of treatment";
 11 providing for independent medical examinations in certain
 12 situations; providing that only claims made before leaving
 13 employment are eligible for a specified presumption;
 14 providing an effective date.

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

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 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
 23 Florida state, municipal, county, port authority, special tax
 24 district, or fire control district firefighter or any law
 25 enforcement officer, ~~or~~ correctional officer, or correctional
 26 probation officer as defined in s. 943.10(1), (2), or (3) caused
 27 by tuberculosis, heart disease, or hypertension resulting in
 28 total or partial disability or death shall be presumed to have

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

40 | (b)1. For any workers' compensation claim filed under this
 41 | section and chapter 440 occurring on or after July 1, 2010, a
 42 | law enforcement officer, correctional officer, or correctional
 43 | probation officer as defined in s. 943.10(1), (2), or (3)
 44 | suffering from tuberculosis, heart disease, or hypertension is
 45 | presumed not to have incurred such disease in the line of duty
 46 | as provided in this section if the law enforcement officer,
 47 | correctional officer, or correctional probation officer:

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

54 | b. Was previously compensated pursuant to this section and
 55 | chapter 440 for tuberculosis, heart disease, or hypertension and
 56 | thereafter sustains and reports a new compensable workers'

57 compensation claim under this section and chapter 440, and the
58 law enforcement officer, correctional officer, or correctional
59 probation officer has departed in a material fashion from the
60 prescribed course of treatment of an authorized physician for
61 the preexisting workers' compensation claim and the departure is
62 demonstrated to have resulted in a significant aggravation of
63 the tuberculosis, heart disease, or hypertension resulting in
64 disability or increasing the disability or need for medical
65 treatment.

66 2. As used in this paragraph, "prescribed course of
67 treatment" means prescribed medical courses of action and
68 prescribed medicines for the specific disease or diseases
69 claimed and as documented in the prescribing physician's medical
70 records.

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

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

CS/HB 123

2010

85 (2) This section authorizes each governmental entity
86 specified in subsection (1) ~~shall be construed to authorize the~~
87 ~~above governmental entities~~ to negotiate policy contracts for
88 life and disability insurance to include accidental death
89 benefits or double indemnity coverage which shall include the
90 presumption that any condition or impairment of health of any
91 firefighter, law enforcement officer, or correctional officer
92 caused by tuberculosis, heart disease, or hypertension resulting
93 in total or partial disability or death was accidental and
94 suffered in the line of duty, unless the contrary be shown by
95 competent evidence.

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