

By Senator Oelrich

14-00289A-10

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

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

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

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

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

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

81 (e) 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.

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

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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.