

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

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

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

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

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

591-02482-10

2010212c1

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

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

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

55 b. Was previously compensated pursuant to this section and
56 chapter 440 for tuberculosis, heart disease, or hypertension and
57 thereafter sustains and reports a new compensable workers'
58 compensation claim under this section and chapter 440, and the

591-02482-10

2010212c1

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

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

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

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

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

591-02482-10

2010212c1

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

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