

By Senator Diaz

36-00530-19

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1                   A bill to be entitled  
2           An act relating to the Special Risk Class; amending s.  
3           121.0515, F.S.; adding to the class certain employees  
4           of specified state hospitals and other facilities who  
5           spend a certain amount of time performing duties that  
6           involve contact with patients or inmates; conforming  
7           cross-references; declaring that the act fulfills an  
8           important state interest; providing an effective date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
12           Section 1. Paragraph (h) of subsection (2), subsection (3),  
13           and paragraph (d) of subsection (8) of section 121.0515, Florida  
14           Statutes, are amended to read:

15           121.0515 Special Risk Class.—

16           (2) MEMBERSHIP.—

17           (h) Effective August 1, 2008, "special risk member"  
18           includes any member who meets the special criteria for continued  
19           membership set forth in paragraph (3) (k) ~~(3) (j)~~.

20           (3) CRITERIA.—A member, to be designated as a special risk  
21           member, must meet the following criteria:

22           (a) Effective October 1, 1978, the member must be employed  
23           as a law enforcement officer and be certified, or required to be  
24           certified, in compliance with s. 943.1395, except that; however,  
25           sheriffs and elected police chiefs are not required to be  
26           certified ~~excluded from meeting the certification requirements~~  
27           ~~of this paragraph~~. In addition, the member's duties and  
28           responsibilities must include the pursuit, apprehension, and  
29           arrest of law violators or suspected law violators; or as of

36-00530-19

2019574\_\_

30 July 1, 1982, the member must be an active member of a bomb  
31 disposal unit whose primary responsibility is the location,  
32 handling, and disposal of explosive devices; or the member must  
33 be the supervisor or command officer of a member or members who  
34 have such responsibilities. Administrative support personnel,  
35 including, but not limited to, those whose primary duties and  
36 responsibilities are in accounting, purchasing, legal, and  
37 personnel, are not included;

38 (b) Effective October 1, 1978, the member must be employed  
39 as a firefighter and be certified, or required to be certified,  
40 in compliance with s. 633.408 and be employed solely within the  
41 fire department of a local government employer or an agency of  
42 state government with firefighting responsibilities. In  
43 addition, the member's duties and responsibilities must include  
44 on-the-scene fighting of fires; as of October 1, 2001, fire  
45 prevention or firefighter training; as of October 1, 2001,  
46 direct supervision of firefighting units, fire prevention, or  
47 firefighter training; or as of July 1, 2001, aerial firefighting  
48 surveillance performed by fixed-wing aircraft pilots employed by  
49 the Florida Forest Service of the Department of Agriculture and  
50 Consumer Services; or the member must be the supervisor or  
51 command officer of a member or members who have such  
52 responsibilities. Administrative support personnel, including,  
53 but not limited to, those whose primary duties and  
54 responsibilities are in accounting, purchasing, legal, and  
55 personnel, are not included. All periods of creditable service  
56 in fire prevention or firefighter training, or as the supervisor  
57 or command officer of a member or members who have such  
58 responsibilities, and for which the employer paid the special

36-00530-19

2019574\_\_

59 risk contribution rate, are included;

60 (c) Effective October 1, 1978, the member must be employed  
61 as a correctional officer and be certified, or required to be  
62 certified, in compliance with s. 943.1395. In addition, the  
63 member's primary duties and responsibilities must include ~~be~~ the  
64 custody, and physical restraint if ~~when~~ necessary, of prisoners  
65 or inmates within a prison, jail, or other criminal detention  
66 facility, or while on work detail outside the facility, or while  
67 being transported; or as of July 1, 1984, the member must be the  
68 supervisor or command officer of a member or members who have  
69 such responsibilities. Administrative support personnel,  
70 including, but not limited to, those whose primary duties and  
71 responsibilities are in accounting, purchasing, legal, and  
72 personnel, are not included; however, wardens and assistant  
73 wardens, as defined by rule, are included;

74 (d) Effective October 1, 1999, the member must be employed  
75 by a licensed Advance Life Support (ALS) or Basic Life Support  
76 (BLS) employer as an emergency medical technician or a paramedic  
77 and be certified in compliance with s. 401.27. In addition, the  
78 member's primary duties and responsibilities must include on-  
79 the-scene emergency medical care or as of October 1, 2001,  
80 direct supervision of emergency medical technicians or  
81 paramedics, or the member must be the supervisor or command  
82 officer of one or more members who have such responsibility.  
83 Administrative support personnel, including, but not limited to,  
84 those whose primary responsibilities are in accounting,  
85 purchasing, legal, and personnel, are not included;

86 (e) Effective January 1, 2001, the member must be employed  
87 as a community-based correctional probation officer and be

36-00530-19

2019574\_\_

88 certified, or required to be certified, in compliance with s.  
89 943.1395. In addition, the member's primary duties and  
90 responsibilities must be the supervised custody, surveillance,  
91 control, investigation, and counseling of assigned inmates,  
92 probationers, parolees, or community controllees within the  
93 community; or the member must be the supervisor of a member or  
94 members who have such responsibilities. Administrative support  
95 personnel, including, but not limited to, those whose primary  
96 duties and responsibilities are in accounting, purchasing, legal  
97 services, and personnel management, are not included; however,  
98 probation and parole circuit and deputy circuit administrators  
99 are included;

100 (f) Effective January 1, 2001, the member must be employed  
101 in one of the following classes and must spend at least 75  
102 percent of his or her time performing duties that ~~which~~ involve  
103 contact with patients or inmates in a correctional or forensic  
104 facility or institution:

- 105 1. Dietitian (class codes 5203 and 5204);
- 106 2. Public health nutrition consultant (class code 5224);
- 107 3. Psychological specialist (class codes 5230 and 5231);
- 108 4. Psychologist (class code 5234);
- 109 5. Senior psychologist (class codes 5237 and 5238);
- 110 6. Regional mental health consultant (class code 5240);
- 111 7. Psychological Services Director-DCF (class code 5242);
- 112 8. Pharmacist (class codes 5245 and 5246);
- 113 9. Senior pharmacist (class codes 5248 and 5249);
- 114 10. Dentist (class code 5266);
- 115 11. Senior dentist (class code 5269);
- 116 12. Registered nurse (class codes 5290 and 5291);

36-00530-19

2019574\_\_

- 117 13. Senior registered nurse (class codes 5292 and 5293);  
118 14. Registered nurse specialist (class codes 5294 and  
119 5295);  
120 15. Clinical associate (class codes 5298 and 5299);  
121 16. Advanced practice registered nurse (class codes 5297  
122 and 5300);  
123 17. Advanced practice registered nurse specialist (class  
124 codes 5304 and 5305);  
125 18. Registered nurse supervisor (class codes 5306 and  
126 5307);  
127 19. Senior registered nurse supervisor (class codes 5308  
128 and 5309);  
129 20. Registered nursing consultant (class codes 5312 and  
130 5313);  
131 21. Quality management program supervisor (class code  
132 5314);  
133 22. Executive nursing director (class codes 5320 and 5321);  
134 23. Speech and hearing therapist (class code 5406); or  
135 24. Pharmacy manager (class code 5251);
- 136 (g) Effective October 1, 2005, through June 30, 2008, the  
137 member must be employed by a law enforcement agency or medical  
138 examiner's office in a forensic discipline recognized by the  
139 International Association for Identification and must qualify  
140 for active membership in the International Association for  
141 Identification. The member's primary duties and responsibilities  
142 must include the collection, examination, preservation,  
143 documentation, preparation, or analysis of physical evidence or  
144 testimony, or both, or the member must be the direct supervisor,  
145 quality management supervisor, or command officer of one or more

36-00530-19

2019574\_\_

146 individuals with such responsibility. Administrative support  
147 personnel, including, but not limited to, those whose primary  
148 responsibilities are clerical or in accounting, purchasing,  
149 legal, and personnel, are not included;

150 (h) Effective July 1, 2008, the member must be employed by  
151 the Department of Law Enforcement in the crime laboratory or by  
152 the Division of State Fire Marshal in the forensic laboratory in  
153 one of the following classes:

- 154 1. Forensic technologist (class code 8459);
- 155 2. Crime laboratory technician (class code 8461);
- 156 3. Crime laboratory analyst (class code 8463);
- 157 4. Senior crime laboratory analyst (class code 8464);
- 158 5. Crime laboratory analyst supervisor (class code 8466);
- 159 6. Forensic chief (class code 9602); or
- 160 7. Forensic services quality manager (class code 9603);

161 (i) Effective July 1, 2008, the member must be employed by  
162 a local government law enforcement agency or medical examiner's  
163 office and must spend at least 65 percent of his or her time  
164 performing duties that involve the collection, examination,  
165 preservation, documentation, preparation, or analysis of human  
166 tissues or fluids or physical evidence having potential  
167 biological, chemical, or radiological hazard or contamination,  
168 or use chemicals, processes, or materials that may have  
169 carcinogenic or health-damaging properties in the analysis of  
170 such evidence, or the member must be the direct supervisor of  
171 one or more individuals having such responsibility. If a special  
172 risk member changes to another position within the same agency,  
173 he or she must submit a complete application as provided in  
174 paragraph (4) (a);

36-00530-19

2019574\_\_

175 (j) Effective January 1, 2020, the member must be employed  
176 in any of the following classes and must spend at least 65  
177 percent of his or her time performing duties that involve  
178 contact with patients or inmates at Florida State Hospital;  
179 Northeast Florida State Hospital; Sunland Center at Marianna and  
180 at Chattahoochee, including the Developmental Disabilities  
181 Defendant Program and Pathways; or the North Florida Evaluation  
182 and Treatment Center:

- 183 1. Abuse registry counselor (class code 5961);
- 184 2. Barber/beautician (class codes 6201, 6205, and 6206);
- 185 3. Behavioral program associate (class codes 5750 and  
186 5762);
- 187 4. Behavioral program specialist (class codes 5751 and  
188 5763);
- 189 5. Certified radiologic technologist (class codes 5523,  
190 5524, 5527, and 5528);
- 191 6. Chaplain (class codes 5819 and 5820);
- 192 7. Child protective investigator (class code 8371);
- 193 8. Child protective field support consultant (class code  
194 8374);
- 195 9. Children, youth, and families counselor (class code  
196 5954);
- 197 10. Classroom teacher (class codes 4144 and 4147);
- 198 11. Custodial worker (class codes 6511 and 6526);
- 199 12. Dental assistant (class codes 5632 and 5633);
- 200 13. Dental hygienist (class code 5641);
- 201 14. Dental technician (class code 5644);
- 202 15. Dietetic technician (class code 5594);
- 203 16. Direct services aide (class code 5702);

36-00530-19

2019574\_\_

- 204       17. Education and training specialist (class code 1328);  
205       18. Food control specialist (class code 6217);  
206       19. Food support worker (class code 6213);  
207       20. Health support aide (class codes 5504 and 5505);  
208       21. Human services counselor (class codes 5934, 5936, 5937,  
209 5940, and 5941);  
210       22. Human services program specialist (class code 5877);  
211       23. Human services worker (class codes 5706, 5709, 5781,  
212 and 5784);  
213       24. Librarian (class code 4315);  
214       25. Librarian specialist (class codes 4318 and 4319);  
215       26. Licensed practical nurse (class code 5599);  
216       27. Pharmacy technician (class codes 5500 and 5501);  
217       28. Rehabilitation therapist (class codes 5562 and 5563);  
218       29. Residential unit specialist (class code 5736);  
219       30. Senior chaplain (class code 5823);  
220       31. Senior licensed practical nurse (class codes 5597 and  
221 5600);  
222       32. Social services counselor (class codes 5953 and 5960);  
223       33. Storekeeper (class codes 0918, 0921, and 0922);  
224       34. Teacher aide (class codes 4133 and 4142);  
225       35. Therapy aide (class codes 5556 and 5557);  
226       36. Training specialist (class codes 1322 and 1324);  
227       37. Unit treatment and rehab specialist (class codes 5776  
228 and 5791);  
229       38. Vocational instructor (class codes 1309, 1310, 1311,  
230 1312, 1313, and 1315);  
231       39. Volunteer services center specialist (class code 6000);  
232       40. Volunteer services specialist (class code 5997); or



36-00530-19

2019574\_\_

233        (k)~~(j)~~ The member must have already qualified for and be  
234 actively participating in special risk membership under  
235 paragraph (a), paragraph (b), or paragraph (c), must have  
236 suffered a qualifying injury as defined in this paragraph, must  
237 not be receiving disability retirement benefits as provided in  
238 s. 121.091(4), and must satisfy the requirements of this  
239 paragraph.

240        1. The ability to qualify for the class of membership  
241 defined in paragraph (2)(h) occurs when two licensed medical  
242 physicians, one of whom is a primary treating physician of the  
243 member, certify the existence of the physical injury and medical  
244 condition that constitute a qualifying injury as defined in this  
245 paragraph and ~~that~~ the member has reached maximum medical  
246 improvement after August 1, 2008. The certifications from the  
247 licensed medical physicians must include, at a minimum, that the  
248 injury to the special risk member has resulted in a physical  
249 loss, or loss of use, of at least two of the following: left  
250 arm, right arm, left leg, or right leg; and that:

251        a. The ~~That this~~ physical loss or loss of use is total and  
252 permanent, unless ~~except if~~ the loss of use is due to a physical  
253 injury to the member's brain, in which event the loss of use is  
254 permanent with at least 75 percent loss of motor function with  
255 respect to each arm or leg affected.

256        b. The ~~That this~~ physical loss or loss of use renders the  
257 member physically unable to perform the essential job functions  
258 of his or her special risk position.

259        c. ~~That,~~ Notwithstanding this physical loss or loss of use,  
260 the individual can perform the essential job functions required  
261 by the member's new position, as provided in subparagraph 3.

36-00530-19

2019574\_\_

262 d. ~~That~~ Use of artificial limbs is not possible or does not  
263 alter the member's ability to perform the essential job  
264 functions of the member's position.

265 e. ~~That~~ The physical loss or loss of use is a direct result  
266 of a physical injury and not a result of any mental,  
267 psychological, or emotional injury.

268 2. For the purposes of this paragraph, "qualifying injury"  
269 means an injury sustained in the line of duty, as certified by  
270 the member's employing agency, by a special risk member which  
271 ~~that~~ does not result in total and permanent disability as  
272 defined in s. 121.091(4)(b). An injury is a qualifying injury if  
273 the injury is a physical injury to the member's physical body  
274 resulting in a physical loss, or loss of use, of at least two of  
275 the following: left arm, right arm, left leg, or right leg.  
276 Notwithstanding any other provision of this section, an injury  
277 that would otherwise qualify as a qualifying injury is not  
278 ~~considered~~ a qualifying injury if and when the member ceases  
279 employment with the employer for whom he or she was providing  
280 special risk services on the date the injury occurred.

281 3. The new position, as described in sub-subparagraph 1.c.,  
282 which ~~that~~ is required for qualification as a special risk  
283 member under this paragraph is not required to be a position  
284 with essential job functions that entitle an individual to  
285 special risk membership. Whether a new position as described in  
286 sub-subparagraph 1.c. exists and is available to the special  
287 risk member is a decision to be made solely by the employer in  
288 accordance with its hiring practices and applicable law.

289 4. This paragraph does not grant or create additional  
290 rights for any individual to continued employment or to be hired

36-00530-19

2019574\_\_

291 or rehired by his or her employer which ~~that~~ are not already  
292 provided by state law ~~within the Florida Statutes~~, the State  
293 Constitution, the Americans with Disabilities Act, if  
294 applicable, or any other ~~applicable state or~~ federal law.

295 (8) SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.—

296 (d) Notwithstanding any other provision of this subsection,  
297 this subsection does not apply to any special risk member who  
298 qualifies for continued membership pursuant to paragraph (3) (k)  
299 ~~(3) (j)~~.

300 Section 2. The Legislature finds that a proper and  
301 legitimate state purpose is served when employees and retirees  
302 of the state and its political subdivisions, and the dependents,  
303 survivors, and beneficiaries of such employees and retirees, are  
304 extended the basic protections afforded by governmental  
305 retirement systems. These persons must be provided benefits that  
306 are fair and adequate and are managed, administered, and funded  
307 in an actuarially sound manner, as required by s. 14, Article X  
308 of the State Constitution and part VII of chapter 112, Florida  
309 Statutes. Therefore, the Legislature determines and declares  
310 that this act fulfills an important state interest.

311 Section 3. This act shall take effect January 1, 2020.