

By the Committees on Banking and Insurance; and Criminal Justice; and Senator Oelrich

597-04850-10

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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. 30.2905, F.S.;  
4           providing for interpretation of provisions relating to  
5           workers' compensation benefits for certain services  
6           performed by off-duty deputy sheriffs; providing for  
7           recovery by sheriffs of increased workers'  
8           compensation expenses due to off-duty employment of  
9           deputy sheriffs; amending s. 112.18, F.S.; providing  
10          conditions under which a law enforcement officer,  
11          correctional officer, or correctional probation  
12          officer who suffers from a specified medical condition  
13          and has materially departed from the prescribed  
14          treatment for that condition shall lose a specified  
15          presumption for workers' compensation claims made on  
16          or after a specified date; defining the term  
17          "prescribed course of treatment"; providing for  
18          independent medical examinations in certain  
19          situations; providing that only claims made before  
20          leaving employment are eligible for a specified  
21          presumption; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

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25           Section 1. Subsection (2) of section 30.2905, Florida  
26           Statutes, is amended to read:

27           30.2905 Program to contract for employment of off-duty  
28           deputies for security services.—

29           (2) (a) Any such public or private employer of a deputy

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30 sheriff shall be responsible for the acts or omissions of the  
31 deputy sheriff while performing services for that employer while  
32 off duty, including workers' compensation benefits.

33 (b) However, for the workers' compensation purposes of this  
34 section:~~7~~

35 1. A deputy sheriff so employed who sustains an injury  
36 while enforcing the criminal, traffic, or penal laws of this  
37 state shall be regarded as working on duty.

38 2. The term "enforcing the criminal, traffic, or penal laws  
39 of this state" shall be interpreted to include providing  
40 security, patrol, or traffic direction for a private employer.

41 3. A sheriff may recover from a private or public employer  
42 of an off-duty deputy sheriff, who is regarded as working on  
43 duty under this paragraph, any increase in the sheriff's  
44 workers' compensation expenses which results directly from the  
45 off-duty employment.

46 Section 2. Section 112.18, Florida Statutes, is amended to  
47 read:

48 112.18 Firefighters and law enforcement or correctional  
49 officers; special provisions relative to disability.-

50 (1) (a) Any condition or impairment of health of any Florida  
51 state, municipal, county, port authority, special tax district,  
52 or fire control district firefighter or any law enforcement  
53 officer, ~~or~~ correctional officer, or correctional probation  
54 officer as defined in s. 943.10(1), (2), or (3) caused by  
55 tuberculosis, heart disease, or hypertension resulting in total  
56 or partial disability or death shall be presumed to have been  
57 accidental and to have been suffered in the line of duty unless  
58 the contrary be shown by competent evidence. However, any such

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59 firefighter or law enforcement officer must ~~shall~~ have  
60 successfully passed a physical examination upon entering into  
61 any such service as a firefighter or law enforcement officer,  
62 which examination failed to reveal any evidence of any such  
63 condition. Such presumption does ~~shall~~ not apply to benefits  
64 payable under or granted in a policy of life insurance or  
65 disability insurance, unless the insurer and insured have  
66 negotiated for such additional benefits to be included in the  
67 policy contract.

68 (b)1. For any workers' compensation claim filed under this  
69 section and chapter 440 occurring on or after July 1, 2010, a  
70 law enforcement officer, correctional officer, or correctional  
71 probation officer as defined in s. 943.10(1), (2), or (3)  
72 suffering from tuberculosis, heart disease, or hypertension is  
73 presumed not to have incurred such disease in the line of duty  
74 as provided in this section if the law enforcement officer,  
75 correctional officer, or correctional probation officer:

76 a. Departed in a material fashion from the prescribed  
77 course of treatment of his or her personal physician and the  
78 departure is demonstrated to have resulted in a significant  
79 aggravation of the tuberculosis, heart disease, or hypertension  
80 resulting in disability or increasing the disability or need for  
81 medical treatment; or

82 b. Was previously compensated pursuant to this section and  
83 chapter 440 for tuberculosis, heart disease, or hypertension and  
84 thereafter sustains and reports a new compensable workers'  
85 compensation claim under this section and chapter 440, and the  
86 law enforcement officer, correctional officer, or correctional  
87 probation officer has departed in a material fashion from the

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88 prescribed course of treatment of an authorized physician for  
89 the preexisting workers' compensation claim and the departure is  
90 demonstrated to have resulted in a significant aggravation of  
91 the tuberculosis, heart disease, or hypertension resulting in  
92 disability or increasing the disability or need for medical  
93 treatment.

94 2. As used in this paragraph, "prescribed course of  
95 treatment" means prescribed medical courses of action and  
96 prescribed medicines for the specific disease or diseases  
97 claimed and as documented in the prescribing physician's medical  
98 records.

99 3. If there is a dispute as to the appropriateness of the  
100 course of treatment prescribed by a physician under sub-  
101 subparagraph 1.a. or sub-subparagraph 1.b. or whether a  
102 departure in a material fashion from the prescribed course of  
103 treatment is demonstrated to have resulted in a significant  
104 aggravation of the tuberculosis, heart disease, or hypertension  
105 resulting in disability or increasing the disability or need for  
106 medical treatment, the law enforcement officer, correctional  
107 officer, or correctional probation officer is entitled to seek  
108 an independent medical examination pursuant to s. 440.13(5).

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

113 (2) This section authorizes each governmental entity  
114 specified in subsection (1) shall be construed to authorize the  
115 above governmental entities to negotiate policy contracts for  
116 life and disability insurance to include accidental death

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117 benefits or double indemnity coverage which shall include the  
118 presumption that any condition or impairment of health of any  
119 firefighter, law enforcement officer, or correctional officer  
120 caused by tuberculosis, heart disease, or hypertension resulting  
121 in total or partial disability or death was accidental and  
122 suffered in the line of duty, unless the contrary be shown by  
123 competent evidence.

124 Section 3. This act shall take effect July 1, 2010.