

By the Policy and Steering Committee on Ways and Means; the Committees on Banking and Insurance; and Criminal Justice; and Senator Oelrich

576-05322-10

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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, but is not
40 limited to, providing security, patrol, or traffic direction for
41 a private employer.

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

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

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

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

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

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

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

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

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

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

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

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

114 (2) This section authorizes each governmental entity
115 specified in subsection (1) shall be construed to authorize the
116 above governmental entities to negotiate policy contracts for

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

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