

By: Hunter

H.B. No. 3816

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain claims for benefits, compensation, or
3 assistance by certain public safety employees and survivors of
4 certain public safety employees.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 607.002, Government Code, is amended to
7 read as follows:

8 Sec. 607.002. REIMBURSEMENT. (a) A public safety employee
9 who is exposed to a contagious disease is entitled to reimbursement
10 from the employing governmental entity for reasonable medical
11 expenses incurred in treatment for the prevention of the disease
12 if:

13 (1) the disease is not an "ordinary disease of life" as
14 that term is used in the context of a workers' compensation claim;

15 (2) the exposure to the disease occurs during the
16 course of the employment; and

17 (3) the employee requires preventative medical
18 treatment because of exposure to the disease.

19 (b) For purposes of this section, a disease is not an
20 "ordinary disease of life" if the disease is the basis for a
21 disaster declared by the governor under Section 418.014 for all or
22 part of the state.

23 SECTION 2. The heading for Subchapter B, Chapter 607,
24 Government Code, is amended to read as follows:

1 employment as a detention officer, firefighter, peace officer, or
2 emergency medical technician.

3 (b) A presumption under this subchapter does not apply:

4 (1) to a determination of a survivor's eligibility for
5 benefits under Chapter 615;

6 (2) in a cause of action brought in a state or federal
7 court except for judicial review of a proceeding in which there has
8 been a grant or denial of employment-related benefits or
9 compensation;

10 (3) to a determination regarding benefits or
11 compensation under a life or disability insurance policy purchased
12 by or on behalf of the detention officer, firefighter, peace
13 officer, or emergency medical technician that provides coverage in
14 addition to any benefits or compensation required by law; or

15 (4) if the disease or illness for which benefits or
16 compensation is sought is known to be caused by the use of tobacco
17 and:

18 (A) the firefighter, peace officer, or emergency
19 medical technician is or has been a user of tobacco; or

20 (B) the firefighter's, peace officer's, or
21 emergency medical technician's spouse has, during the marriage,
22 been a user of tobacco that is consumed through smoking.

23 (e) A detention officer, firefighter, peace officer, or
24 emergency medical technician who uses a presumption established
25 under this subchapter is entitled only to the benefits or
26 compensation to which the detention officer, firefighter, peace
27 officer, or emergency medical technician would otherwise be

1 entitled to receive at the time the claim for benefits or
2 compensation is filed.

3 (g) This subchapter applies to a detention officer,
4 firefighter, peace officer, or emergency medical technician who
5 provides services as an employee of an entity created by an
6 interlocal agreement.

7 SECTION 5. Subchapter B, Chapter 607, Government Code, is
8 amended by adding Section 607.0545 to read as follows:

9 Sec. 607.0545. DISEASES THAT CAUSE DISASTER DECLARATION. A
10 detention officer, firefighter, peace officer, or emergency
11 medical technician who contracts a disease that is the basis for a
12 disaster declared by the governor under Section 418.014 for all or
13 part of the state and dies or is totally or partially disabled as a
14 result of the disease is presumed to have contracted the disease
15 during the course and scope of employment as a detention officer,
16 firefighter, peace officer, or emergency medical technician.

17 SECTION 6. Section 607.057, Government Code, is amended to
18 read as follows:

19 Sec. 607.057. EFFECT OF PRESUMPTION. Except as provided by
20 Section 607.052(b), a presumption established under this
21 subchapter applies to a determination of whether a detention
22 officer's, firefighter's, peace officer's, or emergency medical
23 technician's disability or death resulted from a disease or illness
24 contracted in the course and scope of employment for purposes of
25 benefits or compensation provided under another employee benefit,
26 law, or plan, including a pension plan.

27 SECTION 7. Section 607.058, Government Code, is amended to

1 read as follows:

2 Sec. 607.058. PRESUMPTION REBUTTABLE. (a) A presumption
3 under Section 607.053, 607.054, 607.0545, 607.055, or 607.056 may
4 be rebutted through a showing by a preponderance of the evidence
5 that a risk factor, accident, hazard, or other cause not associated
6 with the individual's service as a detention officer, firefighter,
7 peace officer, or emergency medical technician was a substantial
8 factor in bringing about the individual's disease or illness,
9 without which the disease or illness would not have occurred.

10 (b) A rebuttal offered under this section must include a
11 statement by the person offering the rebuttal that describes, in
12 detail, the evidence that the person reviewed before making the
13 determination that a cause not associated with the individual's
14 service as a detention officer, firefighter, peace officer, or
15 emergency medical technician was a substantial factor in bringing
16 about the individual's disease or illness, without which the
17 disease or illness would not have occurred.

18 (c) In addressing an argument based on a rebuttal offered
19 under this section, an administrative law judge shall make findings
20 of fact and conclusions of law that consider whether a qualified
21 expert, relying on evidence-based medicine, stated the opinion
22 that, based on reasonable medical probability, an identified risk
23 factor, accident, hazard, or other cause not associated with the
24 individual's service as a detention officer, firefighter, or
25 emergency medical technician was a substantial factor in bringing
26 about the individual's disease or illness, without which the
27 disease or illness would not have occurred.

1 SECTION 8. Section [615.021](#)(e)(1), Government Code, is
2 amended to read as follows:

3 (1) "Personal injury" means an injury resulting from:
4 (A) an external force, an activity, or a disease
5 caused by or resulting from:

6 (i) [~~(A)~~] a line-of-duty accident; or

7 (ii) [~~(B)~~] an illness caused by
8 line-of-duty work under hazardous conditions; or

9 (B) a disease that is the basis for a disaster
10 declared by the governor under Section [418.014](#) for all or part of
11 the state.

12 SECTION 9. Subchapter B, Chapter [615](#), Government Code, is
13 amended by adding Section [615.0211](#) to read as follows:

14 Sec. [615.0211](#). PRESUMPTION OF LINE OF DUTY INJURY. (a) In
15 this section, "line of duty" has the meaning assigned by Section
16 [615.021](#).

17 (b) An individual listed under Section [615.003](#) who suffers a
18 personal injury resulting from a disease that is the basis for a
19 disaster declared by the governor under Section [418.014](#) for all or
20 part of the state is presumed to have sustained the injury in the
21 line of duty in the individual's position as described by Section
22 [615.003](#).

23 SECTION 10. Section [615.072](#)(c)(1), Government Code, is
24 amended to read as follows:

25 (1) "Personal injury" means an injury resulting from:

26 (A) an external force, an activity, or a disease
27 caused by or resulting from:

1 (i) [~~(A)~~] a line-of-duty accident; or
2 (ii) [~~(B)~~] an illness caused by
3 line-of-duty work under hazardous conditions; or
4 (B) a disease that is the basis for a disaster
5 declared by the governor under Section 418.014 for all or part of
6 the state.

7 SECTION 11. Subchapter D, Chapter 615, Government Code, is
8 amended by adding Section 615.0721 to read as follows:

9 Sec. 615.0721. PRESUMPTION OF LINE OF DUTY INJURY. (a) In
10 this section, "line of duty" has the meaning assigned by Section
11 615.072.

12 (b) An individual listed under Section 615.071 who suffers a
13 personal injury resulting from a disease that is the basis for a
14 disaster declared by the governor under Section 418.014 for all or
15 part of the state is presumed to have sustained the injury in the
16 line of duty in the individual's position as described by Section
17 615.071.

18 SECTION 12. (a) The changes in law made by this Act apply to
19 a claim for benefits, compensation, or assistance pending on or
20 filed on or after the effective date of this Act. A claim for
21 benefits, compensation, or assistance filed before that date, other
22 than a claim pending on that date, is covered by the law in effect on
23 the date the claim was made, and that law is continued in effect for
24 that purpose.

25 (b) Notwithstanding Subsection (a) of this section, a
26 person who on or after February 1, 2020, but before the effective
27 date of this Act, filed a claim for benefits, compensation, or

1 assistance related to coronavirus disease (COVID-19) and whose
2 claim was subsequently denied may file another claim on or after the
3 effective date of this Act, and the changes in law made by this Act
4 apply to that claim.

5 SECTION 13. This Act takes effect immediately if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this Act takes effect September 1, 2021.