

By: Springer

S.B. No. 2471

A BILL TO BE ENTITLED

1 AN ACT  
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. The heading to Subchapter B, Chapter 607,  
7 Government Code, is amended to read as follows:

8 SUBCHAPTER B. DISEASES OR ILLNESSES SUFFERED BY DETENTION  
9 OFFICERS, CUSTODIAL OFFICERS, FIREFIGHTERS, PEACE OFFICERS, AND  
10 EMERGENCY MEDICAL TECHNICIANS

11 SECTION 2. Section 607.051, Government Code, is amended by  
12 amending Subdivision (1) and adding Subdivisions (1-a) and (1-b) to  
13 read as follows:

14 (1) "Custodial officer" means a person who is employed  
15 by the Board of Pardons and Paroles or the Texas Department of  
16 Criminal Justice as a parole officer or caseworker or who is  
17 employed by the correctional institutions division of the Texas  
18 Department of Criminal Justice and certified by the department as  
19 having a normal job assignment that requires frequent or infrequent  
20 regularly planned contact with, and in close proximity to, inmates  
21 or defendants of the correctional institutions division without the  
22 protection of bars, doors, security screens, or similar devices and  
23 includes assignments normally involving supervision or the  
24 potential for supervision of inmates in inmate housing areas,

1 educational or recreational facilities, industrial shops,  
2 kitchens, laundries, medical areas, agricultural shops or fields,  
3 or in other areas on or away from property of the department.

4 (1-a) "Detention officer" means an individual  
5 employed by a state agency or political subdivision of the state to  
6 ensure the safekeeping of prisoners and the security of a  
7 municipal, county, or state penal institution in this state.

8 (1-b) "Disability" means partial or total disability.

9 SECTION 3. Sections [607.052\(a\)](#), (b), (e), and (g),  
10 Government Code, are amended to read as follows:

11 (a) Notwithstanding any other law, this subchapter applies  
12 only to a detention officer, custodial officer, firefighter, peace  
13 officer, or emergency medical technician who:

14 (1) on becoming employed or during employment as a  
15 detention officer, custodial officer, firefighter, peace officer,  
16 or emergency medical technician, received a physical examination  
17 that failed to reveal evidence of the illness or disease for which  
18 benefits or compensation are sought using a presumption established  
19 by this subchapter;

20 (2) is employed for five or more years as a  
21 firefighter, peace officer, or emergency medical technician,  
22 except for the presumption under Section [607.0545](#); and

23 (3) seeks benefits or compensation for a disease or  
24 illness covered by this subchapter that is discovered during  
25 employment as a detention officer, custodial officer, firefighter,  
26 peace officer, or emergency medical technician.

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

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

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

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

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

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

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

21           (e) A detention officer, custodial officer, firefighter,  
22 peace officer, or emergency medical technician who uses a  
23 presumption established under this subchapter is entitled only to  
24 the benefits or compensation to which the detention officer,  
25 custodial officer, firefighter, peace officer, or emergency  
26 medical technician would otherwise be entitled to receive at the  
27 time the claim for benefits or compensation is filed.

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

5 SECTION 4. Section 607.054, Government Code, is amended to  
6 read as follows:

7 Sec. 607.054. TUBERCULOSIS OR OTHER RESPIRATORY ILLNESS.

8 (a) A firefighter, peace officer, or emergency medical technician  
9 who suffers from tuberculosis, or any other disease or illness of  
10 the lungs or respiratory tract that has a statistically positive  
11 correlation with service as a firefighter, peace officer, or  
12 emergency medical technician, that results in death or total or  
13 partial disability is presumed to have contracted the disease or  
14 illness during the course and scope of employment as a firefighter,  
15 peace officer, or emergency medical technician.

16 (b) This section does not apply to a claim that a  
17 firefighter, peace officer, or emergency medical technician  
18 suffers from severe acute respiratory syndrome coronavirus 2  
19 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19).

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

22 Sec. 607.0545. SEVERE ACUTE RESPIRATORY SYNDROME  
23 CORONAVIRUS 2 (SARS-CoV-2) OR CORONAVIRUS DISEASE 2019 (COVID-19).

24 (a) A detention officer, custodial officer, firefighter, peace  
25 officer, or emergency medical technician who suffers from severe  
26 acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or  
27 coronavirus disease 2019 (COVID-19) that results in death or total

1 or partial disability is presumed to have contracted the virus or  
2 disease during the course and scope of employment as a detention  
3 officer, custodial officer, firefighter, peace officer, or  
4 emergency medical technician if the detention officer, custodial  
5 officer, firefighter, peace officer, or emergency medical  
6 technician:

7 (1) is employed in the area designated in a disaster  
8 declaration by the governor under Section 418.014 or another law  
9 and the disaster is related to severe acute respiratory syndrome  
10 coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19);  
11 and

12 (2) contracts the disease during the disaster declared  
13 by the governor described by Subdivision (1).

14 (b) The presumption under this section applies only to a  
15 person who:

16 (1) is employed as a detention officer, custodial  
17 officer, firefighter, peace officer, or emergency medical  
18 technician on a full-time basis;

19 (2) is diagnosed with severe acute respiratory  
20 syndrome coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019  
21 (COVID-19):

22 (A) using a test authorized, approved, or  
23 licensed by the United States Food and Drug Administration; or

24 (B) if the person is deceased:

25 (i) using a test described by Paragraph  
26 (A); or

27 (ii) by another means, including by a

1 physician; and

2 (3) was last on duty:

3 (A) not more than 15 days before the date the  
4 person is diagnosed with severe acute respiratory syndrome  
5 coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19)  
6 using a test described by Subdivision (2)(A); or

7 (B) if the person is deceased, not more than 15  
8 days before the date the person:

9 (i) was diagnosed with severe acute  
10 respiratory syndrome coronavirus 2 (SARS-CoV-2) or coronavirus  
11 disease 2019 (COVID-19) using a test described by Subdivision  
12 (2)(A);

13 (ii) began to show symptoms of severe acute  
14 respiratory syndrome coronavirus 2 (SARS-CoV-2) or coronavirus  
15 disease 2019 (COVID-19) as determined by a licensed physician;

16 (iii) was hospitalized for symptoms related  
17 to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or  
18 coronavirus disease 2019 (COVID-19); or

19 (iv) died if severe acute respiratory  
20 syndrome coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019  
21 (COVID-19) was a contributing factor in the person's death.

22 (c) This section does not affect the right of a detention  
23 officer, custodial officer, firefighter, peace officer, or  
24 emergency medical technician to provide proof, without the use of  
25 the presumption under this section, that an injury or illness  
26 occurred during the course and scope of employment.

27 (d) Sections [409.009](#) and [409.0091](#), Labor Code, do not apply

1 to a claim for compensation determined to be compensable or  
2 accepted by an insurance carrier as compensable using the  
3 presumption under this section. Notwithstanding this subsection,  
4 an injured employee may request reimbursement for health care paid  
5 by the employee as provided by Section [409.0092](#), Labor Code.

6 (e) This section expires September 1, ~~2023~~ 2027.

7 SECTION 6. Section [607.057](#), Government Code, is amended to  
8 read as follows:

9 Sec. 607.057. EFFECT OF PRESUMPTION. Except as provided by  
10 Section [607.052\(b\)](#), a presumption established under this  
11 subchapter applies to a determination of whether a detention  
12 officer's, custodial officer's, firefighter's, peace officer's, or  
13 emergency medical technician's disability or death resulted from a  
14 disease or illness contracted in the course and scope of employment  
15 for purposes of benefits or compensation provided under another  
16 employee benefit, law, or plan, including a pension plan.

17 SECTION 7. Section [607.058](#), Government Code, is amended to  
18 read as follows:

19 Sec. 607.058. PRESUMPTION REBUTTABLE. (a) A presumption  
20 under Section [607.053](#), [607.054](#), [607.0545](#), [607.055](#), or [607.056](#) may  
21 be rebutted through a showing by a preponderance of the evidence  
22 that a risk factor, accident, hazard, or other cause not associated  
23 with the individual's service as a detention officer, custodial  
24 officer, firefighter, peace officer, or emergency medical  
25 technician was a substantial factor in bringing about the  
26 individual's disease or illness, without which the disease or  
27 illness would not have occurred.

1 (b) A rebuttal offered under this section must include a  
2 statement by the person offering the rebuttal that describes, in  
3 detail, the evidence that the person reviewed before making the  
4 determination that a cause not associated with the individual's  
5 service as a detention officer, custodial officer, firefighter,  
6 peace officer, or emergency medical technician was a substantial  
7 factor in bringing about the individual's disease or illness,  
8 without which the disease or illness would not have occurred.

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

20 (d) A rebuttal offered under this section to a presumption  
21 under Section 607.0545 may not be based solely on evidence relating  
22 to the risk of exposure to severe acute respiratory syndrome  
23 coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19)  
24 of a person with whom a detention officer, custodial officer,  
25 firefighter, peace officer, or emergency medical technician  
26 resides. This subsection expires September 1, ~~2023~~ 2027.

27 SECTION 8. Subchapter A, Chapter 409, Labor Code, is



1 amended by adding Section 409.0092 to read as follows:

2           Sec. 409.0092. HEALTH CARE REIMBURSEMENT PROCEDURES FOR  
3 CERTAIN INJURED EMPLOYEES. (a) An injured employee who is subject  
4 to Section 607.0545, Government Code, and whose claim for benefits  
5 is determined to be compensable by an insurance carrier or the  
6 division, may request reimbursement for health care paid by the  
7 employee, including copayments and partial payments, by submitting  
8 to the carrier a legible written request and documentation showing  
9 the amounts paid to the health care provider.

10           (b) Not later than the 45th day after the date an injured  
11 employee submits a request for reimbursement for health care to an  
12 insurance carrier under Subsection (a), the carrier shall provide  
13 reimbursement or deny the request.

14           (c) If an insurance carrier denies an injured employee's  
15 request for reimbursement for health care, the employee may seek  
16 medical dispute resolution as provided by Chapter 413 and division  
17 rules. Notwithstanding any other law, an employee's request for  
18 medical dispute resolution is considered timely if the employee  
19 submits the request not later than the 120th day after the date the  
20 carrier denies the employee's request for reimbursement.

21           (d) This section expires September 1, ~~2023~~ 2027.

22           SECTION 9. Section 409.022(d), Labor Code, is amended to  
23 read as follows:

24           (d) In this subsection, the terms "custodial officer,"  
25 "detention officer," "emergency medical technician,"  
26 "firefighter," and "peace officer" have the meanings assigned by  
27 Section 607.051, Government Code. In addition to the other

1 requirements of this section, if an insurance carrier's notice of  
2 refusal to pay benefits under Section 409.021 is sent in response to  
3 a claim for compensation resulting from a custodial officer's, a  
4 detention officer's, an emergency medical technician's, a  
5 firefighter's, or a peace officer's disability or death for which a  
6 presumption is claimed to be applicable under Subchapter B, Chapter  
7 607, Government Code, the notice must include a statement by the  
8 carrier that:

9           (1) explains why the carrier determined a presumption  
10 under that subchapter does not apply to the claim for compensation;  
11 and

12           (2) describes the evidence that the carrier reviewed  
13 in making the determination described by Subdivision (1).

14           SECTION 10. (a) The changes in law made by this Act apply to  
15 a claim for benefits pending on or filed on or after the effective  
16 date of this Act. A claim for benefits filed before that date is  
17 covered by the law in effect on the date the claim was made, and that  
18 law is continued in effect for that purpose.

19           (b) Notwithstanding any other law, a person subject to  
20 Section 607.0545, Government Code, as added by this Act, who on or  
21 after the date the governor declared a disaster under Chapter 418,  
22 Government Code, relating to SARS-CoV-2, coronavirus disease 2019  
23 (COVID-19), but before the effective date of this Act, contracted  
24 SARS-CoV-2, coronavirus disease 2019 (COVID-19), may file a claim  
25 for benefits related to SARS-CoV-2, coronavirus disease 2019  
26 (COVID-19), on or after the effective date of this Act, regardless  
27 of whether that claim is otherwise considered untimely and the

1 changes in law made by this Act apply to that claim. A claim  
2 authorized under this subsection must be filed not later than six  
3 months after the effective date of this Act.

4 (c) Notwithstanding Subsection (a) of this section or  
5 Section 409.003, 409.007, 410.169, or 410.205, Labor Code, a person  
6 subject to Section 607.0545, Government Code, as added by this Act,  
7 who on or after the date the governor declared a disaster under  
8 Chapter 418, Government Code, relating to SARS-CoV-2, coronavirus  
9 disease 2019 (COVID-19), but before the effective date of this Act,  
10 filed a claim for benefits related to SARS-CoV-2, coronavirus  
11 disease 2019 (COVID-19), and whose claim was subsequently denied  
12 may, on or after the effective date of this Act, request in writing  
13 that the insurance carrier reprocess the claim and the changes in  
14 law made by this Act shall apply to that claim. A request to  
15 reprocess a claim as authorized by this subsection shall be filed  
16 not later than one year after the effective date of this Act.

17 (d) Not later than the 60th day after the date an insurance  
18 carrier receives a written request to reprocess a claim under  
19 Subsection (c) of this section, the insurance carrier shall  
20 reprocess the claim and notify the person in writing whether the  
21 carrier accepted or denied the claim. If the insurance carrier  
22 denies the claim, the notice must include information on the  
23 process for disputing the denial. The notice provided by the  
24 insurance carrier must use the notice provisions prescribed by the  
25 division of workers' compensation of the Texas Department of  
26 Insurance under Subsection (e) of this section.

27 (e) As soon as practicable after the effective date of this

1 Act, the division of workers' compensation of the Texas Department  
2 of Insurance shall prescribe notice provisions for an insurance  
3 carrier to use when providing notice of the insurance carrier's  
4 acceptance or denial of a person's claim. The notice provisions  
5 must be clear and easily understandable.

6 SECTION 11. This Act takes effect immediately if it  
7 receives a vote of two-thirds of all the members elected to each  
8 house, as provided by Section 39, Article III, Texas Constitution.  
9 If this Act does not receive the vote necessary for immediate  
10 effect, this Act takes effect September 1, 2023.