

By: Wray

H.B. No. 1492

A BILL TO BE ENTITLED

AN ACT

relating to benefits for peace officers who suffer from certain diseases or illnesses.

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

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

SUBCHAPTER B. DISEASES OR ILLNESSES SUFFERED BY FIREFIGHTERS, PEACE OFFICERS, AND EMERGENCY MEDICAL TECHNICIANS

SECTION 2. Section 607.051, Government Code, is amended by adding Subdivision (4) to read as follows:

(4) "Peace officer" means an individual elected, appointed, or employed to serve as a peace officer for a governmental entity under Article 2.12, Code of Criminal Procedure, or other law.

SECTION 3. Sections 607.052(a), (b), (e), (g), and (h), Government Code, are amended to read as follows:

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

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

1 (2) is employed for five or more years as a
2 firefighter, peace officer, or emergency medical technician; and

3 (3) seeks benefits or compensation for a disease or
4 illness covered by this subchapter that is discovered during
5 employment as a firefighter, peace officer, or emergency medical
6 technician.

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

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

10 (2) in a cause of action brought in a state or federal
11 court except for judicial review of a proceeding in which there has
12 been a grant or denial of employment-related benefits or
13 compensation;

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

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

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

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

27 (e) A firefighter, peace officer, or emergency medical

1 technician who uses a presumption established under this subchapter
2 is entitled only to the benefits or compensation to which the
3 firefighter, peace officer, or emergency medical technician would
4 otherwise be entitled to receive at the time the claim for benefits
5 or compensation is filed.

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

9 (h) Subsection (b)(4) only prevents the application of the
10 presumption authorized by this subchapter and does not affect the
11 right of a firefighter, peace officer, or emergency medical
12 technician to provide proof, without the use of that presumption,
13 that an injury or illness occurred during the course and scope of
14 employment.

15 SECTION 4. Sections 607.053(a), (c), and (d), Government
16 Code, are amended to read as follows:

17 (a) A firefighter, peace officer, or emergency medical
18 technician is presumed to have suffered a disability or death
19 during the course and scope of employment if the firefighter, peace
20 officer, or emergency medical technician:

21 (1) received preventative immunization against
22 smallpox, or another disease to which the firefighter, peace
23 officer, or emergency medical technician may be exposed during the
24 course and scope of employment and for which immunization is
25 possible; and

26 (2) suffered death or total or partial disability as a
27 result of the immunization.

1 (c) A presumption established under Subsection (a) may not
2 be rebutted by evidence that the immunization was:

3 (1) not required by the employer;

4 (2) not required by law; or

5 (3) received voluntarily or with the consent of the
6 firefighter, peace officer, or emergency medical technician.

7 (d) A firefighter, peace officer, or emergency medical
8 technician who suffers from smallpox that results in death or total
9 or partial disability is presumed to have contracted the disease
10 during the course and scope of employment as a firefighter, peace
11 officer, or emergency medical technician.

12 SECTION 5. Section 607.054, Government Code, is amended to
13 read as follows:

14 Sec. 607.054. TUBERCULOSIS OR OTHER RESPIRATORY ILLNESS. A
15 firefighter, peace officer, or emergency medical technician who
16 suffers from tuberculosis, or any other disease or illness of the
17 lungs or respiratory tract that has a statistically positive
18 correlation with service as a firefighter, peace officer, or
19 emergency medical technician, that results in death or total or
20 partial disability is presumed to have contracted the disease or
21 illness during the course and scope of employment as a firefighter,
22 peace officer, or emergency medical technician.

23 SECTION 6. Section 607.056(a), Government Code, is amended
24 to read as follows:

25 (a) A firefighter, peace officer, or emergency medical
26 technician who suffers an acute myocardial infarction or stroke
27 resulting in disability or death is presumed to have suffered the

1 disability or death during the course and scope of employment as a
2 firefighter, peace officer, or emergency medical technician if:

3 (1) while on duty, the firefighter, peace officer, or
4 emergency medical technician:

5 (A) was engaged in a situation that involved
6 nonroutine stressful or strenuous physical activity involving fire
7 suppression, rescue, hazardous material response, emergency
8 medical services, or other emergency response activity; or

9 (B) participated in a training exercise that
10 involved nonroutine stressful or strenuous physical activity; and

11 (2) the acute myocardial infarction or stroke occurred
12 while the firefighter, peace officer, or emergency medical
13 technician was engaging in the activity described under Subdivision
14 (1).

15 SECTION 7. Sections 607.057 and 607.058, Government Code,
16 are amended to read as follows:

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

25 Sec. 607.058. PRESUMPTION REBUTTABLE. (a) A presumption
26 under Section 607.053, 607.054, 607.055, or 607.056 may be rebutted
27 through a showing by a preponderance of the evidence that a risk

1 factor, accident, hazard, or other cause not associated with the
2 individual's service as a firefighter, peace officer, or emergency
3 medical technician caused the individual's disease or illness.

4 (b) A rebuttal offered under this section must include a
5 statement by the person offering the rebuttal that describes, in
6 detail, the evidence that the person reviewed before making the
7 determination that a cause not associated with the individual's
8 service as a firefighter, peace officer, or emergency medical
9 technician caused the individual's disease or illness.

10 SECTION 8. The changes in law made by this Act apply to a
11 claim for benefits or compensation brought on or after the
12 effective date of this Act. A claim for benefits or compensation
13 brought before that date is covered by the law in effect on the date
14 the claim was made, and that law is continued in effect for that
15 purpose.

16 SECTION 9. This Act takes effect September 1, 2019.