87R4431 MCK-D

By:  Hunter H.B. No. 3816

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

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

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

SECTION 3.  Section 607.051, Government Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

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

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

SECTION 4.  Sections 607.052(a), (b), (e), and (g), Government Code, are amended to read as follows:

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

(1)  on becoming employed or during employment as a detention officer, 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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 7.  Section 607.058, Government Code, is amended to read as follows:

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

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

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

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

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

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

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

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

(B)  a disease that is the basis for a disaster declared by the governor under Section 418.014 for all or part of the state.

SECTION 9.  Subchapter B, Chapter 615, Government Code, is amended by adding Section 615.0211 to read as follows:

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

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

SECTION 10.  Section 615.072(c)(1), Government Code, is amended to read as follows:

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

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

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

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

(B)  a disease that is the basis for a disaster declared by the governor under Section 418.014 for all or part of the state.

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

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

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

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

(b)  Notwithstanding Subsection (a) of this section, a person who on or after February 1, 2020, but before the effective date of this Act, filed a claim for benefits, compensation, or assistance related to coronavirus disease (COVID-19) and whose claim was subsequently denied may file another claim on or after the effective date of this Act, and the changes in law made by this Act apply to that claim.

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