By:  Springer, et al. S.B. No. 22

A BILL TO BE ENTITLED

AN ACT

relating to certain claims for benefits or compensation by 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 to 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:

(A)  a corrections officer employed by the Texas Department of Criminal Justice; or

(B)  a person employed as a county jail guard under Section 85.005, Local Government Code, and licensed under Chapter 1701, Occupations Code.

(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 firefighter, peace officer, or emergency medical technician, except for purposes of the presumption under Section 607.0545; 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 A DISASTER DECLARATION. (a)  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 or other law for all or part of the state that results in death or total or partial disability 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 if the detention officer, firefighter, peace officer, or emergency medical technician:

(1)  is employed in the area designated in the disaster declaration; and

(2)  contracts the disease during the disaster declared by the governor.

(b)  The presumption under this section applies only to a claim for benefits or compensation filed before the first anniversary of the date the state of disaster described by Subsection (a) is terminated.

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 409.022(d), Labor Code, is amended to read as follows:

(d)  In this subsection, the terms "detention officer," "emergency medical technician," "firefighter," and "peace officer" have the meanings assigned by Section 607.051, Government Code. In addition to the other requirements of this section, if an insurance carrier's notice of refusal to pay benefits under Section 409.021 is sent in response to a claim for compensation resulting from a detention officer's, an emergency medical technician's, a firefighter's, or a peace officer's disability or death for which a presumption is claimed to be applicable under Subchapter B, Chapter 607, Government Code, the notice must include a statement by the carrier that:

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

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

SECTION 9.  (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 any other law, a person who on or after the date the governor declared a disaster under Chapter 418, Government Code, relating to SARS-CoV-2, coronavirus disease 2019 (COVID-19), but before the effective date of this Act, contracted SARS-CoV-2, coronavirus disease 2019 (COVID-19), may file a claim for benefits, compensation, or assistance related to SARS-CoV-2, coronavirus disease 2019 (COVID-19), on or after the effective date of this Act, regardless of whether that claim is otherwise considered untimely and the changes in law made by this Act apply to that claim.

(c)  Notwithstanding Subsection (a) of this section or Sections 409.003, 410.169, or 410.205, Labor Code, a person who on or after the date the governor declared a disaster under Chapter 418, Government Code, relating to SARS-CoV-2, coronavirus disease 2019 (COVID-19), but before the effective date of this Act, filed a claim for benefits, compensation, or assistance related to SARS-CoV-2, coronavirus disease 2019 (COVID-19), and whose claim was subsequently denied may, on or after the effective date of this Act, request in writing that the insurance carrier reprocess the claim and the changes in law made by this Act shall apply to that claim. A request to reprocess a claim as authorized by this subsection shall be filed not later than six months after the effective date of this Act.

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

(e)  As soon as practicable after the effective date of this Act, the division of workers' compensation of the Texas Department of Insurance shall prescribe notice provisions for an insurance carrier to use when providing notice of the insurance carrier's acceptance or denial of a person's claim. The notice provisions must be clear and easily understandable.

SECTION 10.  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.