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H.B. No. 541

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, CORRECTIONS EMPLOYEES, 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) "Corrections employee" means an employee of the
15 Texas Department of Criminal Justice whose job duties require
16 regular interaction with the public or an incarcerated population.

17 (1-a) "Detention officer" means an individual
18 employed by a state agency or political subdivision of the state to
19 ensure the safekeeping of prisoners and the security of a
20 municipal, county, or state penal institution in this state.

21 (1-b) "Disability" means partial or total disability.

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

24 (a) Notwithstanding any other law, this subchapter applies

1 only to a detention officer, corrections employee, firefighter,
2 peace officer, or emergency medical technician who:

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

9 (2) is employed for five or more years as a
10 firefighter, peace officer, or emergency medical technician,
11 except for the presumption under Section 607.0545; and

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

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

17 (1) to a determination of a survivor's eligibility for
18 benefits under Chapter 615, except for the presumption under
19 Section 607.0545;

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

24 (3) to a determination regarding benefits or
25 compensation under a life or disability insurance policy purchased
26 by or on behalf of the detention officer, corrections employee,
27 firefighter, peace officer, or emergency medical technician that

1 provides coverage in addition to any benefits or compensation
2 required by law; or

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

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

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

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

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

22 SECTION 4. Section 607.054, Government Code, is amended to
23 read as follows:

24 Sec. 607.054. TUBERCULOSIS OR OTHER RESPIRATORY ILLNESS.

25 (a) A firefighter, peace officer, or emergency medical technician
26 who suffers from tuberculosis, or any other disease or illness of
27 the lungs or respiratory tract that has a statistically positive

1 correlation with service as a firefighter, peace officer, or
2 emergency medical technician, that results in death or total or
3 partial disability is presumed to have contracted the disease or
4 illness during the course and scope of employment as a firefighter,
5 peace officer, or emergency medical technician.

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

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

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

14 (a) A detention officer, corrections employee, firefighter, peace
15 officer, or emergency medical technician who, based on a test
16 approved by the United States Food and Drug Administration, suffers
17 from severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)
18 or coronavirus disease 2019 (COVID-19) that results in death or
19 total or partial disability is presumed to have contracted the
20 virus or disease during the course and scope of employment as a
21 detention officer, corrections employee, firefighter, peace
22 officer, or emergency medical technician if the detention officer,
23 corrections employee, firefighter, peace officer, or emergency
24 medical technician:

25 (1) is employed in the area designated in a disaster
26 declaration by the governor under Section 418.014 or another law
27 and the disaster is related to severe acute respiratory syndrome

1 coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19);
2 and

3 (2) contracts the disease during the disaster declared
4 by the governor described by Subdivision (1).

5 (b) The presumption under this section applies only to a
6 person who:

7 (1) is employed as a detention officer, corrections
8 employee, firefighter, peace officer, or emergency medical
9 technician on a full-time basis; and

10 (2) was last on duty not more than 14 days before the
11 date the person tests positive for severe acute respiratory
12 syndrome coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019
13 (COVID-19).

14 (c) This section does not affect the right of a detention
15 officer, corrections employee, firefighter, peace officer, or
16 emergency medical technician to provide proof, without the use of
17 the presumption under this section, that an injury or illness
18 occurred during the course and scope of employment.

19 (d) Sections 409.009 and 409.0091, Labor Code, do not apply
20 to a claim for compensation determined to be compensable or
21 accepted by an insurance carrier as compensable using the
22 presumption under this section. Notwithstanding this subsection,
23 an injured employee may request reimbursement for health care paid
24 by the employee as provided by rule of the division of workers'
25 compensation of the Texas Department of Insurance.

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

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

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

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

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

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

12 (d) A rebuttal offered under this section to a presumption
13 under Section 607.0545 may not be based solely on evidence relating
14 to the risk of exposure to severe acute respiratory syndrome
15 coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19)
16 of a person with whom a detention officer, corrections employee,
17 firefighter, peace officer, or emergency medical technician
18 resides.

19 (e) A rebuttal offered under this section to a presumption
20 under Section 607.0545 may be based on evidence that a person with
21 whom a detention officer, corrections employee, firefighter, peace
22 officer, or emergency medical technician resides had a confirmed
23 diagnosis of severe acute respiratory syndrome coronavirus 2
24 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19).

25 SECTION 8. Section [409.022](#)(d), Labor Code, is amended to
26 read as follows:

27 (d) In this subsection, the terms "corrections employee,"

1 "detention officer," "emergency medical technician,"
2 "firefighter," and "peace officer" have the meanings assigned by
3 Section 607.051, Government Code. In addition to the other
4 requirements of this section, if an insurance carrier's notice of
5 refusal to pay benefits under Section 409.021 is sent in response to
6 a claim for compensation resulting from a corrections employee's, a
7 detention officer's, an emergency medical technician's, a
8 firefighter's, or a peace officer's disability or death for which a
9 presumption is claimed to be applicable under Subchapter B, Chapter
10 607, Government Code, the notice must include a statement by the
11 carrier that:

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

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

17 SECTION 9. (a) The changes in law made by this Act apply to
18 a claim for benefits, compensation, or assistance pending on or
19 filed on or after the effective date of this Act. A claim for
20 benefits, compensation, or assistance filed before that date, other
21 than a claim pending on that date, is covered by the law in effect on
22 the date the claim was made, and that law is continued in effect for
23 that purpose.

24 (b) Notwithstanding Subsection (a) of this section or
25 Sections 409.003, 410.169, or 410.205, Labor Code, a person who on
26 or after the date the governor declared a disaster under Chapter
27 418, Government Code, relating to SARS-CoV-2, coronavirus disease

1 2019 (COVID-19), but before the effective date of this Act, filed a
2 claim for benefits, compensation, or assistance related to
3 SARS-CoV-2, coronavirus disease 2019 (COVID-19), and whose claim
4 was subsequently denied may, on or after the effective date of this
5 Act, request in writing that the insurance carrier reprocess the
6 claim and the changes in law made by this Act shall apply to that
7 claim. A request to reprocess a claim as authorized by this
8 subsection shall be filed not later than one year after the
9 effective date of this Act.

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

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

26 SECTION 10. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each

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1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote necessary for immediate
3 effect, this Act takes effect September 1, 2021.