

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:

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

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

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

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

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

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

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

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

25 (e) A detention officer, firefighter, peace officer, or
26 emergency medical technician who uses a presumption established
27 under this subchapter is entitled only to the benefits or

1 compensation to which the detention officer, firefighter, peace
2 officer, or emergency medical technician would otherwise be
3 entitled to receive at the time the claim for benefits or
4 compensation is filed.

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

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

11 Sec. 607.0545. DISEASES THAT CAUSE A DISASTER DECLARATION.

12 (a) A detention officer, firefighter, peace officer, or emergency
13 medical technician who contracts a disease that is the basis for a
14 disaster declared by the governor under Section 418.014 or other
15 law for all or part of the state that results in death or total or
16 partial disability is presumed to have contracted the disease
17 during the course and scope of employment as a detention officer,
18 firefighter, peace officer, or emergency medical technician if the
19 detention officer, firefighter, peace officer, or emergency
20 medical technician:

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

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

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

1 Subsection (a) is terminated.

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

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

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

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

22 (b) A rebuttal offered under this section must include a
23 statement by the person offering the rebuttal that describes, in
24 detail, the evidence that the person reviewed before making the
25 determination that a cause not associated with the individual's
26 service as a detention officer, firefighter, peace officer, or
27 emergency medical technician was a substantial factor in bringing

1 about the individual's disease or illness, without which the
2 disease or illness would not have occurred.

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

13 SECTION 8. Section 409.022(d), Labor Code, is amended to
14 read as follows:

15 (d) In this subsection, the terms "detention officer,"
16 "emergency medical technician," "firefighter," and "peace officer"
17 have the meanings assigned by Section 607.051, Government Code. In
18 addition to the other requirements of this section, if an insurance
19 carrier's notice of refusal to pay benefits under Section 409.021
20 is sent in response to a claim for compensation resulting from a
21 detention officer's, an emergency medical technician's, a
22 firefighter's, or a peace officer's disability or death for which a
23 presumption is claimed to be applicable under Subchapter B, Chapter
24 607, Government Code, the notice must include a statement by the
25 carrier that:

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

1 and

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

4 SECTION 9. (a) The changes in law made by this Act apply to
5 a claim for benefits, compensation, or assistance pending on or
6 filed on or after the effective date of this Act. A claim for
7 benefits, compensation, or assistance filed before that date, other
8 than a claim pending on that date, is covered by the law in effect on
9 the date the claim was made, and that law is continued in effect for
10 that purpose.

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

21 (c) Notwithstanding Subsection (a) of this section or
22 Sections 409.003, 410.169, or 410.205, Labor Code, a person who on
23 or after the date the governor declared a disaster under Chapter
24 418, Government Code, relating to SARS-CoV-2, coronavirus disease
25 2019 (COVID-19), but before the effective date of this Act, filed a
26 claim for benefits, compensation, or assistance related to
27 SARS-CoV-2, coronavirus disease 2019 (COVID-19), and whose claim

1 was subsequently denied may, on or after the effective date of this
2 Act, request in writing that the insurance carrier reprocess the
3 claim and the changes in law made by this Act shall apply to that
4 claim. A request to reprocess a claim as authorized by this
5 subsection shall be filed not later than six months after the
6 effective date of this Act.

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

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

23 SECTION 10. This Act takes effect immediately if it
24 receives a vote of two-thirds of all the members elected to each
25 house, as provided by Section 39, Article III, Texas Constitution.
26 If this Act does not receive the vote necessary for immediate
27 effect, this Act takes effect September 1, 2021.