

BILL ANALYSIS

C.S.H.B. 2926
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2021, the legislature passed legislation establishing a presumption that public safety employees who contract COVID-19 contracted the virus during the course and scope of employment. Currently, the presumption is set to expire on September 1, 2023. Stakeholders have expressed a need for the presumption to be extended but have also alleged that some claims have been unfairly denied, that workers were not sufficiently notified of their rights to file or reprocess a claim, and that a beneficiary is not allowed to request health care reimbursement for an employee who has died. C.S.H.B. 2926 seeks to address these concerns by providing for previously denied claims to be reprocessed, expanding the application of health care reimbursement, and extending the COVID-19 presumption until September 1, 2025.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of workers' compensation in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 2926 amends the Government Code to postpone from September 1, 2023, to September 1, 2025, the expiration of the presumption that a detention officer, custodial officer, firefighter, peace officer, or emergency medical technician who suffers from severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19) resulting in death or total or partial disability contracted the virus or disease during the course and scope of their employment under certain conditions.

C.S.H.B. 2926 requires an insurance carrier who, before June 14, 2021, denied a claim for benefits related to SARS-CoV-2 or COVID-19 for such an employee or their beneficiary to do the following:

- reprocess each denied claim without a written request not later than October 31, 2023;
- when reprocessing a claim, apply the presumption that the illness was contracted during the course and scope of employment;
- notify the person in writing, not later than that date, whether the insurance carrier accepted or denied the claim; and
- if denying a reprocessed claim:
 - use the notice prescribed by the division of workers' compensation of the Texas Department of Insurance; and
 - include in the notice information on the process for disputing the denial.

An insurance carrier is not required to process a claim that the carrier has previously reprocessed in accordance with applicable law. The bill requires the commissioner of workers' compensation to adopt any rules necessary to reprocess the claims. These provisions expire December 31, 2023.

C.S.H.B. 2926 requires the division, as soon as practicable after the bill's effective date, to prescribe in English and Spanish the notices to be used by an insurance carrier in notifying the injured employee or the employee's beneficiary that the insurance carrier will be reprocessing the previously denied claim and of the insurance carrier's acceptance or denial of a previously denied claim.

C.S.H.B. 2926 amends the Labor Code to expand the application of health care reimbursement procedures to include all compensable claims related to diseases and illnesses contracted by detention officers, custodial officers, firefighters, peace officers, or emergency medical technicians during the course and scope of employment. The bill authorizes a beneficiary of such an employee to request reimbursement or seek medical dispute resolution through those procedures. The bill removes the September 1, 2023, expiration date for these procedures.

C.S.H.B. 2926 expands the conduct that constitutes an administrative violation by an insurance carrier or its representative to include the following:

- misrepresenting benefits relating to diseases or illnesses suffered by detention officers, custodial officers, firefighters, peace officers, and emergency medical technicians to an employee, an employer, a health care provider, or a legal beneficiary;
- failing to apply a statutory presumption that such a disease or illness was contracted during the course and scope of such employment to a qualifying claim; and
- denying a claim subject to such a statutory presumption without obtaining an opinion from a medical expert.

These provisions apply only to an administrative violation committed on or after the bill's effective date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2926 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced required the commissioner of insurance to adopt rules to implement the bill's provisions regarding the reprocessing of denied claims, the substitute requires the commission of workers' compensation to adopt such rules.