



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3837

Introduced 2/22/2021, by Rep. Lindsey LaPointe

SYNOPSIS AS INTRODUCED:

See Index

Amends the Chicago Police and Chicago Firefighter Articles of the Illinois Pension Code. Provides that for certain death benefits, the death of any policeman or fireman as a result of post-traumatic stress disorder shall be rebuttably presumed to have been contracted while in the performance of an act of duty and he or she shall be rebuttably presumed to have been fatally injured while in active service. Provides that any active policeman or fireman who has completed 7 or more years of service and is unable to perform his or her duties in the department by reason of a disabling post-traumatic stress disorder that develops or manifests itself while the policeman or fireman is in the service of the department shall be entitled to receive an occupational disease disability benefit. Amends the Workers' Compensation Act and the Workers' Occupational Diseases Act. Provides that a person employed as a firefighter, emergency medical technician (EMT), emergency medical technician-intermediate (EMT-I), advanced emergency medical technician (A-EMT), or paramedic may recover for post-traumatic stress disorder. Provides that any condition or impairment of health of an employee employed as a police officer, as defined in the Downstate Police Article of the Illinois Pension Code, that results directly or indirectly from post-traumatic stress disorder resulting in any disability to the employee shall be rebuttably presumed to arise out of and in the course of the employee's police employment and shall be rebuttably presumed to be causally connected to the hazards or exposures of the employment. Makes other changes. Amends the State Mandate Act to require implementation without reimbursement by the State. Effective immediately.

LRB102 14982 RPS 20337 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by
5 changing Sections 5-144, 5-154.1, 6-140, and 6-151.1 as
6 follows:

7 (40 ILCS 5/5-144) (from Ch. 108 1/2, par. 5-144)

8 Sec. 5-144. Death from injury in the performance of acts
9 of duty; compensation annuity and supplemental annuity.

10 (a) Beginning January 1, 1986, and without regard to
11 whether or not the annuity in question began before that date,
12 if the annuity for the widow of a policeman whose death, on or
13 after January 1, 1940, results from injury incurred in the
14 performance of an act or acts of duty, is not equal to the sum
15 hereinafter stated, "compensation annuity" equal to the
16 difference between the annuity and an amount equal to 75% of
17 the policeman's salary attached to the position he held by
18 certification and appointment as a result of competitive civil
19 service examination that would ordinarily have been paid to
20 him as though he were in active discharge of his duties shall
21 be payable to the widow until the policeman, had he lived,
22 would have attained age 63. The total amount of the widow's
23 annuity and children's awards payable to the family of such

1 policeman shall not exceed the amounts stated in Section
2 5-152.

3 For the purposes of this Section only, the death of any
4 policeman as a result of the exposure to and contraction of
5 COVID-19, as evidenced by either (i) a confirmed positive
6 laboratory test for COVID-19 or COVID-19 antibodies or (ii) a
7 confirmed diagnosis of COVID-19 from a licensed medical
8 professional, shall be rebuttably presumed to have been
9 contracted while in the performance of an act or acts of duty
10 and the policeman shall be rebuttably presumed to have been
11 fatally injured while in active service. The presumption shall
12 apply to any policeman who was exposed to and contracted
13 COVID-19 on or after March 9, 2020 and on or before December
14 31, 2020; except that the presumption shall not apply if the
15 policeman was on a leave of absence from his or her employment
16 or otherwise not required to report for duty for a period of 14
17 or more consecutive days immediately prior to the date of
18 contraction of COVID-19. For the purposes of determining when
19 a policeman contracted COVID-19 under this paragraph, the date
20 of contraction is either the date that the policeman was
21 diagnosed with COVID-19 or was unable to work due to symptoms
22 that were later diagnosed as COVID-19, whichever occurred
23 first.

24 For the purposes of this Section, the death of any
25 policeman as a result of post-traumatic stress disorder shall
26 be rebuttably presumed to have been contracted while in the

1 performance of an act or acts of duty and the policeman shall
2 be rebuttably presumed to have been fatally injured while in
3 active service.

4 The provisions of this Section, as amended by Public Act
5 84-1104, including the reference to the date upon which the
6 deceased policeman would have attained age 63, shall apply to
7 all widows of policemen whose death occurs on or after January
8 1, 1940 due to injury incurred in the performance of an act of
9 duty, regardless of whether such death occurred prior to
10 September 17, 1969. For those widows of policemen that died
11 prior to September 17, 1969, who became eligible for
12 compensation annuity by the action of Public Act 84-1104, such
13 compensation annuity shall begin and be calculated from
14 January 1, 1986. The provisions of this amendatory Act of 1987
15 are intended to restate and clarify the intent of Public Act
16 84-1104, and do not make any substantive change.

17 (b) Upon termination of the compensation annuity,
18 "supplemental annuity" shall become payable to the widow,
19 equal to the difference between the annuity for the widow and
20 an amount equal to 75% of the annual salary (including all
21 salary increases and longevity raises) that the policeman
22 would have been receiving when he attained age 63 if the
23 policeman had continued in service at the same rank (whether
24 career service or exempt) that he last held in the police
25 department. The increase in supplemental annuity resulting
26 from this amendatory Act of the 92nd General Assembly applies

1 without regard to whether the deceased policeman was in
2 service on or after the effective date of this amendatory Act
3 and is payable from July 1, 2002 or the date upon which the
4 supplemental annuity begins, whichever is later.

5 (c) Neither compensation nor supplemental annuity shall be
6 paid unless the death of the policeman was a direct result of
7 the injury, or the injury was of such character as to prevent
8 him from subsequently resuming service as a policeman; nor
9 shall compensation or supplemental annuity be paid unless the
10 widow was the wife of the policeman when the injury occurred.
11 (Source: P.A. 101-633, eff. 6-5-20.)

12 (40 ILCS 5/5-154.1) (from Ch. 108 1/2, par. 5-154.1)
13 Sec. 5-154.1. Occupational disease disability benefit.

14 (a) The General Assembly finds that service in the police
15 department requires police officers in times of stress and
16 danger to perform unusual tasks; that police officers are
17 subject to exposure to extreme heat or extreme cold in certain
18 seasons while performing their duties; and that these
19 conditions exist and arise out of or in the course of
20 employment.

21 (b) Any police officer with at least 10 years of service
22 who suffers a heart attack or any other disabling heart
23 disease but is not entitled to a benefit under Section 5-154 is
24 entitled to receive an occupational disease disability benefit
25 under this Section. The occupational disease disability

1 benefit shall be 65% of the salary attached to the rank held by
2 the police officer in the police service at the time of his or
3 her removal from the police department payroll. However, no
4 occupational disease disability benefit that has been payable
5 under this Section for at least 10 years shall be less than 50%
6 of the current salary attached from time to time to the rank
7 held by the police officer at the time of his or her removal
8 from the police department payroll.

9 The police officer is also entitled to a child's
10 disability benefit of \$100 per month for each natural or
11 legally adopted unmarried child less than age 18 dependent
12 upon the police officer for support. The total child's
13 disability benefit shall not exceed 10% of the police
14 officer's salary at the time of removal from the police
15 department payroll. The increase in child's disability benefit
16 provided by this amendatory Act of the 92nd General Assembly
17 applies beginning January 1, 2000 to all such benefits payable
18 on or after that date, regardless of whether the disabled
19 policeman is in active service on or after the effective date
20 of this amendatory Act.

21 The occupational disease disability benefit is payable
22 during the period of disability until the police officer
23 attains age 63 or compulsory retirement age, whichever occurs
24 later; thereafter the police officer shall receive the
25 benefits provided under the other provisions of this Article.
26 If the police officer ceases to be disabled, the occupational

1 disease disability benefit shall cease.

2 The child's disability benefit is payable during the
3 period of disability until the child attains age 18 or
4 marries, whichever event occurs first, except that a benefit
5 payable on account of a child under this Section shall not be
6 reduced or terminated by reason of the child's attainment of
7 age 18 if he or she is then dependent by reason of a physical
8 or mental disability, but shall continue to be paid as long as
9 the child's dependency and disability continue.

10 Any active policeman who has completed 7 or more years of
11 service and is unable to perform his or her duties in the
12 police department by reason of a disabling post-traumatic
13 stress disorder that develops or manifests itself during a
14 period while the policeman is in the service of the department
15 shall be entitled to receive an occupational disease
16 disability benefit during any period of such disability for
17 which he or she does not have a right to receive salary. This
18 entitlement may be rebutted by the city by competent medical
19 evidence.

20 (Source: P.A. 92-52, eff. 7-12-01.)

21 (40 ILCS 5/6-140) (from Ch. 108 1/2, par. 6-140)

22 Sec. 6-140. Death in the line of duty.

23 (a) The annuity for the widow of a fireman whose death
24 results from the performance of an act or acts of duty shall be
25 an amount equal to 50% of the current annual salary attached to

1 the classified position to which the fireman was certified at
2 the time of his death and 75% thereof after December 31, 1972.

3 Unless the performance of an act or acts of duty results
4 directly in the death of the fireman, or prevents him from
5 subsequently resuming active service in the fire department,
6 the annuity herein provided shall not be paid; nor shall such
7 annuities be paid unless the widow was the wife of the fireman
8 at the time of the act or acts of duty which resulted in his
9 death.

10 For the purposes of this Section only, the death of any
11 fireman as a result of the exposure to and contraction of
12 COVID-19, as evidenced by either (i) a confirmed positive
13 laboratory test for COVID-19 or COVID-19 antibodies or (ii) a
14 confirmed diagnosis of COVID-19 from a licensed medical
15 professional, shall be rebuttably presumed to have been
16 contracted while in the performance of an act or acts of duty
17 and the fireman shall be rebuttably presumed to have been
18 fatally injured while in active service. The presumption shall
19 apply to any fireman who was exposed to and contracted
20 COVID-19 on or after March 9, 2020 and on or before December
21 31, 2020; except that the presumption shall not apply if the
22 fireman was on a leave of absence from his or her employment or
23 otherwise not required to report for duty for a period of 14 or
24 more consecutive days immediately prior to the date of
25 contraction of COVID-19. For the purposes of determining when
26 a fireman contracted COVID-19 under this paragraph, the date

1 of contraction is either the date that the fireman was
2 diagnosed with COVID-19 or was unable to work due to symptoms
3 that were later diagnosed as COVID-19, whichever occurred
4 first.

5 For the purposes of this Section, the death of any fireman
6 as a result of post-traumatic stress disorder shall be
7 rebuttably presumed to have been contracted while in the
8 performance of an act or acts of duty and the fireman shall be
9 rebuttably presumed to have been fatally injured while in
10 active service.

11 (b) The changes made to this Section by this amendatory
12 Act of the 92nd General Assembly apply without regard to
13 whether the deceased fireman was in service on or after the
14 effective date of this amendatory Act. In the case of a widow
15 receiving an annuity under this Section that has been reduced
16 to 40% of current salary because the fireman, had he lived,
17 would have attained the age prescribed for compulsory
18 retirement, the annuity shall be restored to the amount
19 provided in subsection (a), with the increase beginning to
20 accrue on the later of January 1, 2001 or the day the annuity
21 first became payable.

22 (Source: P.A. 101-633, eff. 6-5-20.)

23 (40 ILCS 5/6-151.1) (from Ch. 108 1/2, par. 6-151.1)

24 Sec. 6-151.1. The General Assembly finds and declares that
25 service in the Fire Department requires that firemen, in times

1 of stress and danger, must perform unusual tasks; that by
2 reason of their occupation, firemen are subject to exposure to
3 great heat and to extreme cold in certain seasons while in
4 performance of their duties; that by reason of their
5 employment firemen are required to work in the midst of and are
6 subject to heavy smoke fumes and carcinogenic, poisonous,
7 toxic or chemical gases from fires; and that in the course of
8 their rescue and paramedic duties firemen are exposed to
9 disabling infectious diseases, including AIDS, hepatitis C,
10 and stroke. The General Assembly further finds and declares
11 that all the aforementioned conditions exist and arise out of
12 or in the course of such employment.

13 Any active fireman who has completed 7 or more years of
14 service and is unable to perform his duties in the Fire
15 Department by reason of heart disease, tuberculosis, any
16 disease of the lungs or respiratory tract, AIDS, hepatitis C,
17 or stroke resulting from his service as a fireman, shall be
18 entitled to receive an occupational disease disability benefit
19 during any period of such disability for which he does not have
20 a right to receive salary.

21 Any active fireman who has completed 7 or more years of
22 service and is unable to perform his duties in the fire
23 department by reason of a disabling cancer, which develops or
24 manifests itself during a period while the fireman is in the
25 service of the department, shall be entitled to receive an
26 occupational disease disability benefit during any period of

1 such disability for which he does not have a right to receive
2 salary. In order to receive this occupational disease
3 disability benefit, the type of cancer involved must be a type
4 which may be caused by exposure to heat, radiation or a known
5 carcinogen as defined by the International Agency for Research
6 on Cancer.

7 Any fireman who shall enter the service after the
8 effective date of this amendatory Act shall be examined by one
9 or more practicing physicians appointed by the Board, and if
10 that examination discloses impairment of the heart, lungs, or
11 respiratory tract, or the existence of AIDS, hepatitis C,
12 stroke, or cancer, then the fireman shall not be entitled to
13 receive an occupational disease disability benefit unless and
14 until a subsequent examination reveals no such impairment,
15 AIDS, hepatitis C, stroke, or cancer.

16 Any active fireman who has completed 7 or more years of
17 service and is unable to perform his or her duties in the fire
18 department by reason of a disabling post-traumatic stress
19 disorder, which develops or manifests itself during a period
20 while the fireman is in the service of the department, shall be
21 entitled to receive an occupational disease disability benefit
22 during any period of such disability for which he or she does
23 not have a right to receive salary. This entitlement may be
24 rebutted by the city by competent medical evidence.

25 The occupational disease disability benefit shall be 65%
26 of the fireman's salary at the time of his removal from the

1 Department payroll. However, beginning January 1, 1994, no
2 occupational disease disability benefit that has been payable
3 under this Section for at least 10 years shall be less than 50%
4 of the current salary attached from time to time to the rank
5 and grade held by the fireman at the time of his removal from
6 the Department payroll, regardless of whether that removal
7 occurred before the effective date of this amendatory Act of
8 1993.

9 Such fireman also shall have a right to receive child's
10 disability benefit of \$30 per month on account of each
11 unmarried child who is less than 18 years of age or
12 handicapped, dependent upon the fireman for support, and
13 either the issue of the fireman or legally adopted by him. The
14 total amount of child's disability benefit payable to the
15 fireman, when added to his occupational disease disability
16 benefit, shall not exceed 75% of the amount of salary which he
17 was receiving at the time of the grant of occupational disease
18 disability benefit.

19 The first payment of occupational disease disability
20 benefit or child's disability benefit shall be made not later
21 than one month after the benefit is granted. Each subsequent
22 payment shall be made not later than one month after the date
23 of the latest payment.

24 Occupational disease disability benefit shall be payable
25 during the period of the disability until the fireman reaches
26 the age of compulsory retirement. Child's disability benefit

1 shall be paid to such a fireman during the period of disability
2 until such child or children attain age 18 or marry, whichever
3 event occurs first; except that attainment of age 18 by a child
4 who is so physically or mentally handicapped as to be
5 dependent upon the fireman for support, shall not render the
6 child ineligible for child's disability benefit. The fireman
7 thereafter shall receive such annuity or annuities as are
8 provided for him in accordance with other provisions of this
9 Article.

10 (Source: P.A. 93-654, eff. 1-16-04.)

11 Section 10. The Workers' Compensation Act is amended by
12 changing Section 6 as follows:

13 (820 ILCS 305/6) (from Ch. 48, par. 138.6)

14 Sec. 6. (a) Every employer within the provisions of this
15 Act, shall, under the rules and regulations prescribed by the
16 Commission, post printed notices in their respective places of
17 employment in such number and at such places as may be
18 determined by the Commission, containing such information
19 relative to this Act as in the judgment of the Commission may
20 be necessary to aid employees to safeguard their rights under
21 this Act in event of injury.

22 In addition thereto, the employer shall post in a
23 conspicuous place on the place of the employment a printed or
24 typewritten notice stating whether he is insured or whether he

1 has qualified and is operating as a self-insured employer. In
2 the event the employer is insured, the notice shall state the
3 name and address of his insurance carrier, the number of the
4 insurance policy, its effective date and the date of
5 termination. In the event of the termination of the policy for
6 any reason prior to the termination date stated, the posted
7 notice shall promptly be corrected accordingly. In the event
8 the employer is operating as a self-insured employer the
9 notice shall state the name and address of the company, if any,
10 servicing the compensation payments of the employer, and the
11 name and address of the person in charge of making
12 compensation payments.

13 (b) Every employer subject to this Act shall maintain
14 accurate records of work-related deaths, injuries and illness
15 other than minor injuries requiring only first aid treatment
16 and which do not involve medical treatment, loss of
17 consciousness, restriction of work or motion, or transfer to
18 another job and file with the Commission, in writing, a report
19 of all accidental deaths, injuries and illnesses arising out
20 of and in the course of the employment resulting in the loss of
21 more than 3 scheduled work days. In the case of death such
22 report shall be made no later than 2 working days following the
23 accidental death. In all other cases such report shall be made
24 between the 15th and 25th of each month unless required to be
25 made sooner by rule of the Commission. In case the injury
26 results in permanent disability, a further report shall be

1 made as soon as it is determined that such permanent
2 disability has resulted or will result from the injury. All
3 reports shall state the date of the injury, including the time
4 of day or night, the nature of the employer's business, the
5 name, address, age, sex, conjugal condition of the injured
6 person, the specific occupation of the injured person, the
7 direct cause of the injury and the nature of the accident, the
8 character of the injury, the length of disability, and in case
9 of death the length of disability before death, the wages of
10 the injured person, whether compensation has been paid to the
11 injured person, or to his or her legal representative or his
12 heirs or next of kin, the amount of compensation paid, the
13 amount paid for physicians', surgeons' and hospital bills, and
14 by whom paid, and the amount paid for funeral or burial
15 expenses if known. The reports shall be made on forms and in
16 the manner as prescribed by the Commission and shall contain
17 such further information as the Commission shall deem
18 necessary and require. The making of these reports releases
19 the employer from making such reports to any other officer of
20 the State and shall satisfy the reporting provisions as
21 contained in the Safety Inspection and Education Act, the
22 Health and Safety Act, and the Occupational Safety and Health
23 Act. The reports filed with the Commission pursuant to this
24 Section shall be made available by the Commission to the
25 Director of Labor or his representatives and to all other
26 departments of the State of Illinois which shall require such

1 information for the proper discharge of their official duties.
2 Failure to file with the Commission any of the reports
3 required in this Section is a petty offense.

4 Except as provided in this paragraph, all reports filed
5 hereunder shall be confidential and any person having access
6 to such records filed with the Illinois Workers' Compensation
7 Commission as herein required, who shall release any
8 information therein contained including the names or otherwise
9 identify any persons sustaining injuries or disabilities, or
10 give access to such information to any unauthorized person,
11 shall be subject to discipline or discharge, and in addition
12 shall be guilty of a Class B misdemeanor. The Commission shall
13 compile and distribute to interested persons aggregate
14 statistics, taken from the reports filed hereunder. The
15 aggregate statistics shall not give the names or otherwise
16 identify persons sustaining injuries or disabilities or the
17 employer of any injured person or person with a disability.

18 (c) Notice of the accident shall be given to the employer
19 as soon as practicable, but not later than 45 days after the
20 accident. Provided:

21 (1) In case of the legal disability of the employee or
22 any dependent of a deceased employee who may be entitled
23 to compensation under the provisions of this Act, the
24 limitations of time by this Act provided do not begin to
25 run against such person under legal disability until a
26 guardian has been appointed.

1 (2) In cases of injuries sustained by exposure to
2 radiological materials or equipment, notice shall be given
3 to the employer within 90 days subsequent to the time that
4 the employee knows or suspects that he has received an
5 excessive dose of radiation.

6 No defect or inaccuracy of such notice shall be a bar to
7 the maintenance of proceedings on arbitration or otherwise by
8 the employee unless the employer proves that he is unduly
9 prejudiced in such proceedings by such defect or inaccuracy.

10 Notice of the accident shall give the approximate date and
11 place of the accident, if known, and may be given orally or in
12 writing.

13 (d) Every employer shall notify each injured employee who
14 has been granted compensation under the provisions of Section
15 8 of this Act of his rights to rehabilitation services and
16 advise him of the locations of available public rehabilitation
17 centers and any other such services of which the employer has
18 knowledge.

19 In any case, other than one where the injury was caused by
20 exposure to radiological materials or equipment or asbestos
21 unless the application for compensation is filed with the
22 Commission within 3 years after the date of the accident,
23 where no compensation has been paid, or within 2 years after
24 the date of the last payment of compensation, where any has
25 been paid, whichever shall be later, the right to file such
26 application shall be barred.

1 In any case of injury caused by exposure to radiological
2 materials or equipment or asbestos, unless application for
3 compensation is filed with the Commission within 25 years
4 after the last day that the employee was employed in an
5 environment of hazardous radiological activity or asbestos,
6 the right to file such application shall be barred.

7 If in any case except one where the injury was caused by
8 exposure to radiological materials or equipment or asbestos,
9 the accidental injury results in death application for
10 compensation for death may be filed with the Commission within
11 3 years after the date of death where no compensation has been
12 paid or within 2 years after the date of the last payment of
13 compensation where any has been paid, whichever shall be
14 later, but not thereafter.

15 If an accidental injury caused by exposure to radiological
16 material or equipment or asbestos results in death within 25
17 years after the last day that the employee was so exposed
18 application for compensation for death may be filed with the
19 Commission within 3 years after the date of death, where no
20 compensation has been paid, or within 2 years after the date of
21 the last payment of compensation where any has been paid,
22 whichever shall be later, but not thereafter.

23 (e) Any contract or agreement made by any employer or his
24 agent or attorney with any employee or any other beneficiary
25 of any claim under the provisions of this Act within 7 days
26 after the injury shall be presumed to be fraudulent.

1 (f) Any condition or impairment of health of an employee
2 employed as a firefighter, emergency medical technician (EMT),
3 emergency medical technician-intermediate (EMT-I), advanced
4 emergency medical technician (A-EMT), or paramedic which
5 results directly or indirectly from any bloodborne pathogen,
6 lung or respiratory disease or condition, heart or vascular
7 disease or condition, hypertension, tuberculosis, ~~or~~ cancer,
8 or post-traumatic stress disorder resulting in any disability
9 (temporary, permanent, total, or partial) to the employee
10 shall be rebuttably presumed to arise out of and in the course
11 of the employee's firefighting, EMT, or paramedic employment
12 and, further, shall be rebuttably presumed to be causally
13 connected to the hazards or exposures of the employment. This
14 presumption shall also apply to any hernia or hearing loss
15 suffered by an employee employed as a firefighter, EMT, EMT-I,
16 A-EMT, or paramedic. However, this presumption shall not apply
17 to any employee who has been employed as a firefighter, EMT, or
18 paramedic for less than 5 years at the time he or she files an
19 Application for Adjustment of Claim concerning this condition
20 or impairment with the Illinois Workers' Compensation
21 Commission. The rebuttable presumption established under this
22 subsection, however, does not apply to an emergency medical
23 technician (EMT), emergency medical technician-intermediate
24 (EMT-I), advanced emergency medical technician (A-EMT), or
25 paramedic employed by a private employer if the employee
26 spends the preponderance of his or her work time for that

1 employer engaged in medical transfers between medical care
2 facilities or non-emergency medical transfers to or from
3 medical care facilities. The changes made to this subsection
4 by Public Act 98-291 shall be narrowly construed.

5 Any condition or impairment of health of an employee
6 employed as a police officer that results directly or
7 indirectly from post-traumatic stress disorder resulting in
8 any disability (temporary, permanent, total, or partial) to
9 the employee shall be rebuttably presumed to arise out of and
10 in the course of the employee's police employment and,
11 further, shall be rebuttably presumed to be causally connected
12 to the hazards or exposures of the employment. For these
13 purposes, "police officer" has the same meaning given to that
14 term in Section 3-106 of the Illinois Pension Code.

15 The Finding and Decision of the Illinois Workers'
16 Compensation Commission under only the rebuttable presumption
17 provision of this subsection shall not be admissible or be
18 deemed res judicata in any disability claim under the Illinois
19 Pension Code arising out of the same medical condition;
20 however, this sentence makes no change to the law set forth in
21 Krohe v. City of Bloomington, 204 Ill.2d 392.

22 (g) In this Section, "condition or impairment of health"
23 includes post-traumatic stress disorder arising out of and in
24 the course of employment affecting a person employed as a
25 firefighter, emergency medical technician (EMT), emergency
26 medical technician-intermediate (EMT-I), advanced emergency

1 medical technician (A-EMT), or paramedic.

2 (Source: P.A. 98-291, eff. 1-1-14; 98-874, eff. 1-1-15;
3 98-973, eff. 8-15-14; 99-78, eff. 7-20-15; 99-143, eff.
4 7-27-15.)

5 Section 15. The Workers' Occupational Diseases Act is
6 amended by changing Section 1 as follows:

7 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

8 Sec. 1. This Act shall be known and may be cited as the
9 "Workers' Occupational Diseases Act".

10 (a) The term "employer" as used in this Act shall be
11 construed to be:

12 1. The State and each county, city, town, township,
13 incorporated village, school district, body politic, or
14 municipal corporation therein.

15 2. Every person, firm, public or private corporation,
16 including hospitals, public service, eleemosynary,
17 religious or charitable corporations or associations, who
18 has any person in service or under any contract for hire,
19 express or implied, oral or written.

20 3. Where an employer operating under and subject to
21 the provisions of this Act loans an employee to another
22 such employer and such loaned employee sustains a
23 compensable occupational disease in the employment of such
24 borrowing employer and where such borrowing employer does

1 not provide or pay the benefits or payments due such
2 employee, such loaning employer shall be liable to provide
3 or pay all benefits or payments due such employee under
4 this Act and as to such employee the liability of such
5 loaning and borrowing employers shall be joint and
6 several, provided that such loaning employer shall in the
7 absence of agreement to the contrary be entitled to
8 receive from such borrowing employer full reimbursement
9 for all sums paid or incurred pursuant to this paragraph
10 together with reasonable attorneys' fees and expenses in
11 any hearings before the Illinois Workers' Compensation
12 Commission or in any action to secure such reimbursement.
13 Where any benefit is provided or paid by such loaning
14 employer, the employee shall have the duty of rendering
15 reasonable co-operation in any hearings, trials or
16 proceedings in the case, including such proceedings for
17 reimbursement.

18 Where an employee files an Application for Adjustment
19 of Claim with the Illinois Workers' Compensation
20 Commission alleging that his or her claim is covered by
21 the provisions of the preceding paragraph, and joining
22 both the alleged loaning and borrowing employers, they and
23 each of them, upon written demand by the employee and
24 within 7 days after receipt of such demand, shall have the
25 duty of filing with the Illinois Workers' Compensation
26 Commission a written admission or denial of the allegation

1 that the claim is covered by the provisions of the
2 preceding paragraph and in default of such filing or if
3 any such denial be ultimately determined not to have been
4 bona fide then the provisions of Paragraph K of Section 19
5 of this Act shall apply.

6 An employer whose business or enterprise or a
7 substantial part thereof consists of hiring, procuring or
8 furnishing employees to or for other employers operating
9 under and subject to the provisions of this Act for the
10 performance of the work of such other employers and who
11 pays such employees their salary or wage notwithstanding
12 that they are doing the work of such other employers shall
13 be deemed a loaning employer within the meaning and
14 provisions of this Section.

15 (b) The term "employee" as used in this Act, shall be
16 construed to mean:

17 1. Every person in the service of the State, county,
18 city, town, township, incorporated village or school
19 district, body politic or municipal corporation therein,
20 whether by election, appointment or contract of hire,
21 express or implied, oral or written, including any
22 official of the State, or of any county, city, town,
23 township, incorporated village, school district, body
24 politic or municipal corporation therein and except any
25 duly appointed member of the fire department in any city
26 whose population exceeds 500,000 according to the last

1 Federal or State census, and except any member of a fire
2 insurance patrol maintained by a board of underwriters in
3 this State. One employed by a contractor who has
4 contracted with the State, or a county, city, town,
5 township, incorporated village, school district, body
6 politic or municipal corporation therein, through its
7 representatives, shall not be considered as an employee of
8 the State, county, city, town, township, incorporated
9 village, school district, body politic or municipal
10 corporation which made the contract.

11 2. Every person in the service of another under any
12 contract of hire, express or implied, oral or written, who
13 contracts an occupational disease while working in the
14 State of Illinois, or who contracts an occupational
15 disease while working outside of the State of Illinois but
16 where the contract of hire is made within the State of
17 Illinois, and any person whose employment is principally
18 localized within the State of Illinois, regardless of the
19 place where the disease was contracted or place where the
20 contract of hire was made, including aliens, and minors
21 who, for the purpose of this Act, except Section 3 hereof,
22 shall be considered the same and have the same power to
23 contract, receive payments and give quittances therefor,
24 as adult employees. An employee or his or her dependents
25 under this Act who shall have a cause of action by reason
26 of an occupational disease, disablement or death arising

1 out of and in the course of his or her employment may elect
2 or pursue his or her remedy in the State where the disease
3 was contracted, or in the State where the contract of hire
4 is made, or in the State where the employment is
5 principally localized.

6 (c) "Commission" means the Illinois Workers' Compensation
7 Commission created by the Workers' Compensation Act, approved
8 July 9, 1951, as amended.

9 (d) In this Act the term "Occupational Disease" means a
10 disease arising out of and in the course of the employment or
11 which has become aggravated and rendered disabling as a result
12 of the exposure of the employment. Such aggravation shall
13 arise out of a risk peculiar to or increased by the employment
14 and not common to the general public.

15 "Occupational disease" includes post-traumatic stress
16 disorder arising out of and in the course of employment
17 affecting a person employed as a firefighter, emergency
18 medical technician (EMT), emergency medical
19 technician-intermediate (EMT-I), advanced emergency medical
20 technician (A-EMT), or paramedic.

21 A disease shall be deemed to arise out of the employment if
22 there is apparent to the rational mind, upon consideration of
23 all the circumstances, a causal connection between the
24 conditions under which the work is performed and the
25 occupational disease. The disease need not to have been
26 foreseen or expected but after its contraction it must appear

1 to have had its origin or aggravation in a risk connected with
2 the employment and to have flowed from that source as a
3 rational consequence.

4 An employee shall be conclusively deemed to have been
5 exposed to the hazards of an occupational disease when, for
6 any length of time however short, he or she is employed in an
7 occupation or process in which the hazard of the disease
8 exists; provided however, that in a claim of exposure to
9 atomic radiation, the fact of such exposure must be verified
10 by the records of the central registry of radiation exposure
11 maintained by the Department of Public Health or by some other
12 recognized governmental agency maintaining records of such
13 exposures whenever and to the extent that the records are on
14 file with the Department of Public Health or the agency.

15 Any injury to or disease or death of an employee arising
16 from the administration of a vaccine, including without
17 limitation smallpox vaccine, to prepare for, or as a response
18 to, a threatened or potential bioterrorist incident to the
19 employee as part of a voluntary inoculation program in
20 connection with the person's employment or in connection with
21 any governmental program or recommendation for the inoculation
22 of workers in the employee's occupation, geographical area, or
23 other category that includes the employee is deemed to arise
24 out of and in the course of the employment for all purposes
25 under this Act. This paragraph added by Public Act 93-829 is
26 declarative of existing law and is not a new enactment.

1 The employer liable for the compensation in this Act
2 provided shall be the employer in whose employment the
3 employee was last exposed to the hazard of the occupational
4 disease claimed upon regardless of the length of time of such
5 last exposure, except, in cases of silicosis or asbestosis,
6 the only employer liable shall be the last employer in whose
7 employment the employee was last exposed during a period of 60
8 days or more after the effective date of this Act, to the
9 hazard of such occupational disease, and, in such cases, an
10 exposure during a period of less than 60 days, after the
11 effective date of this Act, shall not be deemed a last
12 exposure. If a miner who is suffering or suffered from
13 pneumoconiosis was employed for 10 years or more in one or more
14 coal mines there shall, effective July 1, 1973 be a rebuttable
15 presumption that his or her pneumoconiosis arose out of such
16 employment.

17 If a deceased miner was employed for 10 years or more in
18 one or more coal mines and died from a respirable disease there
19 shall, effective July 1, 1973, be a rebuttable presumption
20 that his or her death was due to pneumoconiosis.

21 Any condition or impairment of health of an employee
22 employed as a firefighter, emergency medical technician (EMT),
23 emergency medical technician-intermediate (EMT-I), advanced
24 emergency medical technician (A-EMT), or paramedic which
25 results directly or indirectly from any bloodborne pathogen,
26 lung or respiratory disease or condition, heart or vascular

1 disease or condition, hypertension, tuberculosis, ~~or~~ cancer,
2 or post-traumatic stress disorder resulting in any disability
3 (temporary, permanent, total, or partial) to the employee
4 shall be rebuttably presumed to arise out of and in the course
5 of the employee's firefighting, EMT, EMT-I, A-EMT, or
6 paramedic employment and, further, shall be rebuttably
7 presumed to be causally connected to the hazards or exposures
8 of the employment. This presumption shall also apply to any
9 hernia or hearing loss suffered by an employee employed as a
10 firefighter, EMT, EMT-I, A-EMT, or paramedic. However, this
11 presumption shall not apply to any employee who has been
12 employed as a firefighter, EMT, EMT-I, A-EMT, or paramedic for
13 less than 5 years at the time he or she files an Application
14 for Adjustment of Claim concerning this condition or
15 impairment with the Illinois Workers' Compensation Commission.
16 The rebuttable presumption established under this subsection,
17 however, does not apply to an emergency medical technician
18 (EMT), emergency medical technician-intermediate (EMT-I),
19 advanced emergency medical technician (A-EMT), or paramedic
20 employed by a private employer if the employee spends the
21 preponderance of his or her work time for that employer
22 engaged in medical transfers between medical care facilities
23 or non-emergency medical transfers to or from medical care
24 facilities. The changes made to this subsection by this
25 amendatory Act of the 98th General Assembly shall be narrowly
26 construed.

1 Any condition or impairment of health of an employee
2 employed as a police officer that results directly or
3 indirectly from post-traumatic stress disorder resulting in
4 any disability (temporary, permanent, total, or partial) to
5 the employee shall be rebuttably presumed to arise out of and
6 in the course of the employee's police employment and,
7 further, shall be rebuttably presumed to be causally connected
8 to the hazards or exposures of the employment. For these
9 purposes, "police officer" has the same meaning given to that
10 term in Section 3-106 of the Illinois Pension Code.

11 The Finding and Decision of the Illinois Workers'
12 Compensation Commission under only the rebuttable presumption
13 provision of this paragraph shall not be admissible or be
14 deemed res judicata in any disability claim under the Illinois
15 Pension Code arising out of the same medical condition;
16 however, this sentence makes no change to the law set forth in
17 Krohe v. City of Bloomington, 204 Ill.2d 392.

18 The insurance carrier liable shall be the carrier whose
19 policy was in effect covering the employer liable on the last
20 day of the exposure rendering such employer liable in
21 accordance with the provisions of this Act.

22 (e) "Disablement" means an impairment or partial
23 impairment, temporary or permanent, in the function of the
24 body or any of the members of the body, or the event of
25 becoming disabled from earning full wages at the work in which
26 the employee was engaged when last exposed to the hazards of

1 the occupational disease by the employer from whom he or she
2 claims compensation, or equal wages in other suitable
3 employment; and "disability" means the state of being so
4 incapacitated.

5 (f) No compensation shall be payable for or on account of
6 any occupational disease unless disablement, as herein
7 defined, occurs within two years after the last day of the last
8 exposure to the hazards of the disease, except in cases of
9 occupational disease caused by berylliosis or by the
10 inhalation of silica dust or asbestos dust and, in such cases,
11 within 3 years after the last day of the last exposure to the
12 hazards of such disease and except in the case of occupational
13 disease caused by exposure to radiological materials or
14 equipment, and in such case, within 25 years after the last day
15 of last exposure to the hazards of such disease.

16 (g) (1) In any proceeding before the Commission in which
17 the employee is a COVID-19 first responder or front-line
18 worker as defined in this subsection, if the employee's injury
19 or occupational disease resulted from exposure to and
20 contraction of COVID-19, the exposure and contraction shall be
21 rebuttably presumed to have arisen out of and in the course of
22 the employee's first responder or front-line worker employment
23 and the injury or occupational disease shall be rebuttably
24 presumed to be causally connected to the hazards or exposures
25 of the employee's first responder or front-line worker
26 employment.

1 (2) The term "COVID-19 first responder or front-line
2 worker" means: all individuals employed as police, fire
3 personnel, emergency medical technicians, or paramedics; all
4 individuals employed and considered as first responders; all
5 workers for health care providers, including nursing homes and
6 rehabilitation facilities and home care workers; corrections
7 officers; and any individuals employed by essential businesses
8 and operations as defined in Executive Order 2020-10 dated
9 March 20, 2020, as long as individuals employed by essential
10 businesses and operations are required by their employment to
11 encounter members of the general public or to work in
12 employment locations of more than 15 employees. For purposes
13 of this subsection only, an employee's home or place of
14 residence is not a place of employment, except for home care
15 workers.

16 (3) The presumption created in this subsection may be
17 rebutted by evidence, including, but not limited to, the
18 following:

19 (A) the employee was working from his or her home, on
20 leave from his or her employment, or some combination
21 thereof, for a period of 14 or more consecutive days
22 immediately prior to the employee's injury, occupational
23 disease, or period of incapacity resulted from exposure to
24 COVID-19; or

25 (B) the employer was engaging in and applying to the
26 fullest extent possible or enforcing to the best of its

1 ability industry-specific workplace sanitation, social
2 distancing, and health and safety practices based on
3 updated guidance issued by the Centers for Disease Control
4 and Prevention or Illinois Department of Public Health or
5 was using a combination of administrative controls,
6 engineering controls, or personal protective equipment to
7 reduce the transmission of COVID-19 to all employees for
8 at least 14 consecutive days prior to the employee's
9 injury, occupational disease, or period of incapacity
10 resulting from exposure to COVID-19. For purposes of this
11 subsection, "updated" means the guidance in effect at
12 least 14 days prior to the COVID-19 diagnosis. For
13 purposes of this subsection, "personal protective
14 equipment" means industry-specific equipment worn to
15 minimize exposure to hazards that cause illnesses or
16 serious injuries, which may result from contact with
17 biological, chemical, radiological, physical, electrical,
18 mechanical, or other workplace hazards. "Personal
19 protective equipment" includes, but is not limited to,
20 items such as face coverings, gloves, safety glasses,
21 safety face shields, barriers, shoes, earplugs or muffs,
22 hard hats, respirators, coveralls, vests, and full body
23 suits; or

24 (C) the employee was exposed to COVID-19 by an
25 alternate source.

26 (4) The rebuttable presumption created in this subsection

1 applies to all cases tried after the effective date of this
2 amendatory Act of the 101st General Assembly and in which the
3 diagnosis of COVID-19 was made on or after March 9, 2020 and on
4 or before December 31, 2020.

5 (5) Under no circumstances shall any COVID-19 case
6 increase or affect any employer's workers' compensation
7 insurance experience rating or modification, but COVID-19
8 costs may be included in determining overall State loss costs.

9 (6) In order for the presumption created in this
10 subsection to apply at trial, for COVID-19 diagnoses occurring
11 on or before June 15, 2020, an employee must provide a
12 confirmed medical diagnosis by a licensed medical practitioner
13 or a positive laboratory test for COVID-19 or for COVID-19
14 antibodies; for COVID-19 diagnoses occurring after June 15,
15 2020, an employee must provide a positive laboratory test for
16 COVID-19 or for COVID-19 antibodies.

17 (7) The presumption created in this subsection does not
18 apply if the employee's place of employment was solely the
19 employee's home or residence for a period of 14 or more
20 consecutive days immediately prior to the employee's injury,
21 occupational disease, or period of incapacity resulted from
22 exposure to COVID-19.

23 (8) The date of injury or the beginning of the employee's
24 occupational disease or period of disability is either the
25 date that the employee was unable to work due to contraction of
26 COVID-19 or was unable to work due to symptoms that were later

1 diagnosed as COVID-19, whichever came first.

2 (9) An employee who contracts COVID-19, but fails to
3 establish the rebuttable presumption is not precluded from
4 filing for compensation under this Act or under the Workers'
5 Compensation Act.

6 (10) To qualify for temporary total disability benefits
7 under the presumption created in this subsection, the employee
8 must be certified for or recertified for temporary disability.

9 (11) An employer is entitled to a credit against any
10 liability for temporary total disability due to an employee as
11 a result of the employee contracting COVID-19 for (A) any sick
12 leave benefits or extended salary benefits paid to the
13 employee by the employer under Emergency Family Medical Leave
14 Expansion Act, Emergency Paid Sick Leave Act of the Families
15 First Coronavirus Response Act, or any other federal law, or
16 (B) any other credit to which an employer is entitled under the
17 Workers' Compensation Act.

18 (Source: P.A. 101-633, eff. 6-5-20.)

19 Section 90. The State Mandates Act is amended by adding
20 Section 8.45 as follows:

21 (30 ILCS 805/8.45 new)

22 Sec. 8.45. Exempt mandate. Notwithstanding Sections 6 and
23 8 of this Act, no reimbursement by the State is required for
24 the implementation of any mandate created by this amendatory

1 Act of the 102nd General Assembly.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.

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2

Statutes amended in order of appearance

3

40 ILCS 5/5-144

from Ch. 108 1/2, par. 5-144

4

40 ILCS 5/5-154.1

from Ch. 108 1/2, par. 5-154.1

5

40 ILCS 5/6-140

from Ch. 108 1/2, par. 6-140

6

40 ILCS 5/6-151.1

from Ch. 108 1/2, par. 6-151.1

7

820 ILCS 305/6

from Ch. 48, par. 138.6

8

820 ILCS 310/1

from Ch. 48, par. 172.36

9

30 ILCS 805/8.45 new