



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3123

Introduced 2/17/2023, by Rep. Martin J. Moylan

SYNOPSIS AS INTRODUCED:

40 ILCS 5/5-240 new

Amends the Chicago Police Article of the Illinois Pension Code. Provides that, in those cases where the injury or death for which a disability or death benefit is payable was caused under circumstances creating a legal liability on the part of some person or entity to pay damages to the policeman, then legal proceedings may be taken against such other person or entity to recover damages notwithstanding the Fund's payment of or liability to pay disability or death benefits. Provides that the Fund may intervene in any action brought by the disabled policeman or his or her personal representative. Effective immediately.

LRB103 25835 RPS 52186 b

1 AN ACT concerning public employee benefits.

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 adding
5 Section 5-240 as follows:

6 (40 ILCS 5/5-240 new)

7 Sec. 5-240. Action by Fund against third party;
8 subrogation. In those cases where the injury or death for
9 which a disability or death benefit is payable under this
10 Article was caused under circumstances creating a legal
11 liability on the part of some person or entity ("third party")
12 to pay damages to the policeman, legal proceedings may be
13 taken against such third party to recover damages
14 notwithstanding the Fund's payment of or liability to pay
15 disability or death benefits under this Article. In such case,
16 however, if the action against such third party is brought by
17 the injured policeman or his or her personal representative
18 and judgment is obtained and paid, or settlement is made with
19 such third party, either with or without suit, from the amount
20 received by such policeman or personal representative, then
21 there shall be paid to the Fund the amount of money
22 representing the death or disability benefits paid or to be
23 paid to the disabled policeman pursuant to the provisions of

1 this Article. In all circumstances where the action against a
2 third party is brought by the disabled policeman or his or her
3 personal representative, the Fund shall have a claim or lien
4 upon any recovery, by judgment or settlement, out of which the
5 disabled policeman or his or her personal representative might
6 be compensated from such third party. The Fund may satisfy or
7 enforce any such claim or lien only from that portion of a
8 recovery that has been, or can be, allocated or attributed to
9 past and future lost salary, which recovery is by judgment or
10 settlement. The Fund's claim or lien shall not be satisfied or
11 enforced from that portion of a recovery that has been, or can
12 be, allocated or attributed to medical care and treatment,
13 pain and suffering, loss of consortium, and attorney's fees
14 and costs.

15 Where an action is brought by the disabled policeman or
16 his or her personal representative, the disabled policeman or
17 his or her personal representative shall forthwith notify the
18 Fund, by personal service or registered mail, of such fact and
19 of the name of the court where such suit is brought, filing
20 proof of such notice in such action. The Fund may, at any time
21 thereafter, intervene in such action upon its own motion.
22 Therefore, no release or settlement of claim for damages by
23 reason of injury to the disabled policeman, and no
24 satisfaction of judgment in such proceedings, shall be valid
25 without the written consent of the Board of Trustees
26 authorized by this Code to administer the Fund created under

1 this Article, except that such consent shall be provided
2 expeditiously following a settlement or judgment.

3 If the disabled policeman or his or her personal
4 representative has not instituted an action against a third
5 party at a time when only 3 months remain before such action
6 would thereafter be barred by law, the Fund may, in its own
7 name or in the name of the personal representative, commence a
8 proceeding against such third party seeking the recovery of
9 all damages on account of injuries caused to the policeman.
10 From any amount so recovered, the Fund shall pay to the
11 personal representative of such disabled policeman all sums
12 collected from such third party by judgment or otherwise in
13 excess of the amount of disability or death benefits paid or to
14 be paid under this Article to the disabled policeman or his
15 personal representative, and such costs, attorney's fees, and
16 reasonable expenses as may be incurred by the Fund in making
17 the collection or in enforcing such liability. The Fund's
18 recovery shall be satisfied only from that portion of a
19 recovery that has been or can be allocated or attributed to
20 past and future lost salary, which recovery is by judgment or
21 settlement. The Fund's recovery shall not be satisfied from
22 that portion of the recovery that has been or can be allocated
23 or attributed to medical care and treatment, pain and
24 suffering, loss of consortium, and attorney's fees and costs.
25 Additionally, with respect to any right of subrogation
26 asserted by the Fund under this Section, the Fund, in the

1 exercise of discretion, may determine what amount from past or
2 future salary shall be appropriate under the circumstances to
3 collect from the recovery obtained on behalf of the disabled
4 policeman.

5 Any recovery obtained by the Fund pursuant to this Section
6 shall be reduced by the offset for any compensation, award, or
7 other payment to the employee under the Workers' Compensation
8 Act or the Workers' Occupational Diseases Act relating to such
9 disability afforded to the Fund pursuant to this Article,
10 except that the reduction in the recovery for such offset
11 shall be limited to that portion of the compensation, award,
12 or other payment that is or reasonably can be allocated or
13 attributed to past or future salary.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.