

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1414
By: Deuell
Intergovernmental Relations
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Committee Report (Substituted)

DIGEST AND PURPOSE

Current Texas law provides that public safety personnel who contract certain occupational diseases may receive benefits if the person can prove the disease was caused by an exposure in the line of duty, and if a specific exposure is documented in a timely manner. C.S.S.B. 1414 provides a rebuttal presumption for certain diseases, including tuberculosis or other respiratory disease or illness, cancer, and smallpox or other disease acquired through being immunized.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Health in SECTION 3 (Section 607.055, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 607, Government Code, to read as follows:

CHAPTER 607. BENEFITS RELATING TO CERTAIN DISEASES AND ILLNESSES

SECTION 2. Redesignates Sections 607.001 through 607.004, Government Code, as Chapter 607, Subchapter A, Government Code, and adds a heading for that subchapter to read as follows:

SUBCHAPTER A. CONTAGIOUS DISEASES

SECTION 3. Amends Chapter 607, Government Code, by adding Subchapter B, as follows:

SUBCHAPTER B. DISEASES OR ILLNESSES SUFFERED BY FIRST RESPONDERS

Sec. 607.051. DEFINITION. Defines "first responder."

Sec. 607.052. APPLICABILITY. (a) Provides that, notwithstanding any other law, this subchapter applies to certain individuals.

(b) Provides that a presumption under this subchapter does not apply to certain circumstances.

(c) Provides that this subchapter does not create a cause of action or enlarge or establish a right to any benefit or compensation or eligibility for any benefit for compensation. Provides that a first responder who uses a presumption under this subchapter is entitled only to the benefits or compensation to which the first responder would be entitled at the time the claim is filed, if, in the absence of the presumption, the first responder provided evidence of exposure to the cause of the disease or illness for which the benefits or compensation are sought sufficient to support an award of benefits or compensation.

Sec. 607.053. **DISABILITY OR DEATH FROM IMMUNIZATION.** (a) Provides that a first responder is presumed to have suffered a disability or death during the course and scope of employment if the first responder undertook preventative immunization measures.

(b) Provides that an immunization described by this section is considered preventative whether the immunization occurs before or after exposure to the disease for which the immunization is prescribed.

(c) Provides that a presumption established under Subsection (a) may not be rebutted by certain evidence.

(d) Provides that a first responder who suffers from smallpox that results in total or partial disability or death is presumed to have contracted the disease during the course and scope of employment as a first responder.

(e) Provides that for purposes of this section, a registered nurse or licensed vocational nurse is considered to be a first responder without regard to whether the registered or licensed vocational nurse is a first responder under Section 607.051.

Sec. 607.054. **TUBERCULOSIS OR RESPIRATORY ILLNESS.** Provides that a first responder who suffers from tuberculosis or any other disease or illness of the lungs or respiratory tract that results in total or partial disability or death is presumed to have contracted the disease or illness during the course and scope of employment as a first responder.

Sec. 607.055. **CANCER.** (a) Provides that a first responder who suffers from cancer resulting in total or partial disability or death is presumed to have developed the cancer during the course and scope of employment as a first responder if certain conditions are met.

(b) Provides that this section applies to any type of cancer that the Texas Department of Health (TDH) determines by rule has a statistically positive correlation with service in the category of first responder in which the person seeking benefits using a presumption under this subchapter is employed. Provides that TDH is not required to collect and maintain data on types of cancer and causation for purposes of this section but authorizes it to rely on information and data published by any source TDH determines to be reliable, including the National Institutes of Health, the International Agency for Research on Cancer, or any other agency of the state or federal government.

(c) Requires TDH to determine by rule when a first responder shall be considered to have regularly responded to calls involving fires and fire fighting as provided by Subsection 607.055(a)(1)(A). Sets forth guidelines and requirements for the rule.

Sec. 607.056. **EFFECT OF PRESUMPTION.** Provides that , except as provided by section 607.052(b), a presumption established under this subchapter applies to a determination of whether a first responder's disability or death resulted from a disease or illness contracted in the course and scope of employment for purposes of benefits or compensation provided under another employee benefit, law, or plan, including a pension plan.

Sec. 607.057. **PRESUMPTION REBUTTABLE.** Authorizes a presumption under Section 607.053, 607.054, or 607.055 to be rebutted by credible evidence that a risk factor, accident, hazard, or other cause not associated with the individual's service as a first responder caused the person's disease or illness.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2003.

