

BILL ANALYSIS

Senate Research Center
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S.B. 310
By: Deuell
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current Texas law provides that public safety personnel who contract certain occupational diseases may receive benefits if the person can prove that the disease was caused by an exposure in the line of duty, and if a specific exposure is documented in a timely manner. There is a lack of available benefits to those who do not show the effects of a disease that they contracted in the line of duty until later. As proposed, S.B. 310 provides a rebuttal presumption for first responders for certain diseases, including heart disease, tuberculosis, respiratory illness, and cancer.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 (Sections 607.054 and 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 Subchapter A, Chapter 607. Provides a new heading for the subchapter 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. DEFINITIONS. Defines "executive commissioner" and "first responder."

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

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

(c) Provides that this subchapter does not create a cause of action, enlarge or establish a right to any benefit or compensation, or establish eligibility for any benefit or compensation.

(d) Provides that a first responder to whom a presumption established under this subchapter applies is entitled only to the benefits or compensation the first responder is entitled to receive at the time the claim for benefits or compensation is filed.

(e) Provides that, for the purposes of this chapter, a person that is a volunteer firefighter certified by the Texas Commission on Fire Protection or the State

Firemen's and Fire Marshals' Association of Texas is considered to be employed or compensated while the person actively serves as a volunteer firefighter.

Sec. 607.053. **DISABILITY OR DEATH FROM IMMUNIZATION; SMALLPOX.** Provides that a first responder is presumed to have suffered a disability or death during the course of employment if the first responder received preventative immunization against smallpox, or another disease to which the first responder may be exposed during the course and scope of employment and for which immunization is possible and suffered total or partial disability or death as a result of the immunization.

(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) Prohibits a presumption established under Subsection (a) from being 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.

Sec. 607.054. **TUBERCULOSIS OR RESPIRATORY ILLNESS.** Provides that a first responder who suffers from tuberculosis, or any other disease of the lungs or respiratory tract that the executive commissioner of the Health and Human Services Commission (executive commissioner) (HHSC), by rule, determines has a statistically positive correlation with service as a first responder in the category in which the person seeking benefits or compensation is employed, 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 the first responder took part in certain activities while a first responder or if the cancer is determined to be associated with firefighting or exposure to heat, smoke, radiation or a known carcinogen as provided by rule of the executive commissioner.

(b) Requires the executive commissioner, by rule, to determine the types of cancer that are scientifically known to be associated with firefighting and certain exposure. Provides that the executive commissioner is not required to collect and maintain data on types of cancer and causation for purposes of this section. Authorizes the executive commissioner to rely on information and data published by certain reliable sources.

(c) Requires the executive commissioner, in consultation with each state agency that licenses, certifies or regulates a first responder, by rule to determine when a first responder is considered to have regularly responded to certain cases involving fires and fire fighting. Sets forth certain requirements for the rule.

(d) Requires each state agency that licenses, certifies, or regulates a first responder to assist the executive commissioner in making the determination required by Subsection (c).

(e) Authorizes the rule required by Subsection (c) to be adopted in accordance with a memorandum of understanding between the executive commissioner, the Department of State Health Services, the Texas Commission on Fire Protection, and any other state agency that licenses, certifies, or regulates a first responder.

Sec.607.056. **EFFECT OF PRESUMPTION.** Applies a presumption established under this subchapter, except as provided by Section 607.052(b), to a determination of whether a first responder's disability or death resulted from disease or illness contracted in the

course and scope of employment for purposes of benefits or compensation provided under an employee benefit law or plan, including a pension plan.

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

SECTION 4. Requires the executive commissioner to adopt the rules required by Subchapter B, Chapter 607, Government Code, as added by this Act, as soon as possible after the Act's effective date.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2005.