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House of Representatives, March 10, 2021

An Act To Support Maine's Corrections Officers and E-9-1-1 Dispatchers

Reference to the Committee on Labor and Housing suggested and ordered printed.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative PEBWORTH of Blue Hill. Cosponsored by Representative: RECKITT of South Portland.

1	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 25 MRSA Pt. 14 is enacted to read:
3	<u>PART 14</u>
4	BENEFITS FOR CORRECTIONS OFFICERS
5	CHAPTER 651
6	SUPPLEMENTAL BENEFIT
7	§5501. Supplemental benefit for corrections officer
8 9	<u>1. Corrections officer; definition.</u> "Corrections officer," as used in this chapter, has the same meaning as in section 2801-A, subsection 2.
10 11 12 13 14 15	2. Supplemental benefit. A corrections officer who while in the performance of duty suffers bodily injury resulting from acts of a person in the custody of the jail, prison or state correctional facility where the corrections officer works and as a result of the injury is entitled to benefits under Title 39-A is entitled to a supplemental benefit in the amount of the difference between the weekly cash benefits to which the corrections officer is entitled under Title 39-A and the corrections officer's regular salary.
16 17	3. Not chargeable against sick leave. Any absence from work resulting from an injury described in subsection 2 may not be charged against available sick leave.
18 19	Sec. 2. 39-A MRSA §201, sub-§3-A, ¶B, as enacted by PL 2017, c. 294, §2, is amended to read:
20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35	B. The employee is a law enforcement officer, <u>corrections officer</u> , <u>E-9-1-1 dispatcher</u> , firefighter or emergency medical services person and is diagnosed by an allopathic physician or an osteopathic physician licensed under Title 32, chapter 48 or chapter 36, respectively, with a specialization in psychiatry or a psychologist licensed under Title 32, chapter 56 as having post-traumatic stress disorder that resulted from work stress, that the work stress was extraordinary and unusual compared with that experienced by the average employee and the work stress and not some other source of stress was the predominant cause of the post-traumatic stress disorder, in which case the post-traumatic stress disorder is presumed to have arisen out of and in the course of the worker's employment. This presumption may be rebutted by clear and convincing evidence to the contrary. For purposes of this paragraph, "law enforcement officer," "corrections officer," "firefighter" and "emergency medical services person" have the same meaning as in section 328-A, subsection 1. For the purposes of this paragraph, "E-9-1-1 dispatcher" means a person who receives calls made to the E-9-1-1 system and dispatcher as defined in Title 32, section 85-A, subsection 1, paragraph D.
36 37 38	By January 1, 2022, the board shall submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters that includes an analysis of the number of claims brought under this paragraph, the portion of those claims that resulted

1 2 3 4 5 6	in a settlement or award of benefits and the effect of the provisions of this paragraph on costs to the State and its subdivisions. The Department of Administrative and Financial Services, Bureau of Human Resources and the Department of Public Safety shall assist the board in developing the report, and the board shall seek the input of an association, the membership of which consists exclusively of counties, municipalities and other political or administrative subdivisions, in the development of the report.
7	This paragraph is repealed October 1, 2022.
8	Sec. 3. 39-A MRSA §328-C is enacted to read:
9	§328-C. Impairment of health caused by infectious disease suffered by a corrections
10	officer
11 12	Impairment of health by infectious disease suffered by a corrections officer is governed by this section.
13 14	<u>1. Definitions.</u> As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
15 16 17 18 19 20	<u>A.</u> "Corrections officer" means an employee of the State or of a county whose place of employment is a correctional facility as defined in Title 34-A, section 1001, subsection 6 or a county or regional jail under Title 30-A, chapter 13 and who is responsible for the care, custody or direct supervision of a person confined in a jail, prison or state correctional facility pursuant to an order of a court or as a result of an arrest.
21 22 23	B. "Infectious disease" means a disease resulting from the presence and activity of a pathogenic microbial agent, including, but not limited to, bacteria, viruses, fungi and parasites.
24 25 26 27 28 29 30	2. Presumption. If a corrections officer successfully passed a physical examination upon entry into service as a corrections officer, or subsequently successfully passed a physical examination, and the examination failed to reveal any evidence of a condition of impairment of health caused by an infectious disease, then a condition of impairment of health caused by an infectious disease resulting in total or partial disability or death of that corrections officer is presumed to have been suffered in the line of duty, unless the contrary is shown by competent evidence.
31	Sec. 4. 39-A MRSA §328-D is enacted to read:
32	§328-D. Heart disease or hypertension suffered by a corrections officer
33 34	Heart disease or hypertension suffered by a corrections officer is governed by this section.
35 36	1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
37 38 39 40 41 42	A. "Corrections officer" means an employee of the State or of a county whose place of employment is a correctional facility as defined in Title 34-A, section 1001, subsection 6 or a county or regional jail under Title 30-A, chapter 13 and who is responsible for the care, custody or direct supervision of a person confined in a jail, prison or state correctional facility pursuant to an order of a court or as a result of an arrest.

1 2	<u>B.</u> "Heart disease" means a structural or functional abnormality of the heart, or of the blood vessels supplying the heart, that impairs the heart's normal functioning.
3 4	<u>C. "Hypertension" means a chronic medical condition in which the blood pressure in the arteries is elevated.</u>
5 6 7 8 9 10 11	2. Presumption. If a corrections officer who contracts heart disease or hypertension has met the requirements of subsections 3, 6 and 7, there is a rebuttable presumption that the corrections officer contracted the heart disease or hypertension in the course of employment as a corrections officer and as a result of that employment, that sufficient notice of the heart disease or hypertension has been given and that the heart disease or hypertension was not occasioned by any willful act of the corrections officer to cause the heart disease or hypertension.
12 13 14 15 16 17	3. Medical tests. In order to be entitled to the presumption in subsection 2, during the time of employment as a corrections officer, the corrections officer must have undergone a standard, medically acceptable test for evidence of the heart disease or hypertension for which the presumption is sought or evidence of the medical conditions derived from the heart disease or hypertension and that test did not indicate the presence or condition of heart disease or hypertension.
18 19 20 21 22 23	4. Liability if services performed for more than one employer. If a corrections officer who contracts heart disease or hypertension was employed as a corrections officer by more than one employer and qualifies for the presumption under subsection 2, and that presumption has not been rebutted, the employer and insurer at the time of the last substantial exposure to the risk of the heart disease or hypertension are liable under this <u>Part.</u>
24 25 26 27	5. Retired corrections officer. This section applies to a corrections officer who is diagnosed with heart disease or hypertension within 10 years of the corrections officer's last active employment as a corrections officer or prior to attaining 70 years of age, whichever occurs first.
28 29	<u>6. Length of service.</u> In order to qualify for the presumption under subsection 2, a corrections officer must have been employed as a corrections officer for at least 5 years.
30 31 32 33 34 35 36	7. Written verification. In order to qualify for the presumption under subsection 2, a corrections officer must sign a written affidavit declaring, to the best of the corrections officer's knowledge and belief, that the corrections officer's diagnosed heart disease or hypertension is not prevalent among the corrections officer's blood-related parents, grandparents or siblings and that the corrections officer has no substantial lifetime habits or personal activities that are associated with the corrections officer's diagnosed heart disease or hypertension.
37	SUMMARY
38 39	This bill makes the following changes to the laws governing corrections officers and E-9-1-1 dispatchers.
40 41 42 43	1. It provides a supplemental benefit paid to a corrections officer who is injured by the acts of a person in the custody of the jail, prison or state correctional facility where the corrections officer works if the injury qualifies the corrections officer for workers' compensation benefits.

2. It adds corrections officers and E-9-1-1 dispatchers to the list of employees for whom there is a rebuttable presumption under the laws governing workers' compensation that when the employee is diagnosed by a licensed psychiatrist or psychologist as having post-traumatic stress disorder resulting from work stress that was extraordinary and unusual, the post-traumatic stress disorder is presumed to have arisen out of and in the course of the worker's employment.

- 7 3. It amends the workers' compensation laws by including a rebuttable presumption
 8 that a condition of impairment of health caused by an infectious disease resulting in total
 9 or partial disability or death of a corrections officer has been suffered in the line of duty,
 10 unless it is shown otherwise.
- 4. It amends the workers' compensation laws by including a rebuttable presumption
 that heart disease or hypertension suffered by a corrections officer was caused in the course
 of employment as a corrections officer, like the provisions of current law that establish a
 rebuttable presumption that cancer contracted by a firefighter was caused by exposure to
 carcinogens in the course of the firefighter's firefighting duties.