

MAINE ASSOCIATION OF POLICE



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"In Valor There Is Hope"

Testimony of Executive Director Paul Gaspar before the Joint Standing Committee on Labor and Housing

Thursday April 6th, 2023

LD 1123 "An Act to Create a Presumption That a Cardiovascular Injury or Disease or Pulmonary Disease Suffered by Certain Law Enforcement Officers Is in the Course of Employment"

Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor and Housing. My name is Paul Gaspar and I am a resident of South Portland.

I speak before you today in both my capacity as the Executive Director of the Maine Association of Police (MAP) and our membership of approximately 900 full time, municipal police officers and public safety dispatchers throughout the state, as well as a founding partner of the Maine Law Enforcement Coalition (MLEC).

The Coalition, along with its partners; the Maine State Law Enforcement and Troopers Associations, as well as the Maine Lodge of Fraternal Order of Police, represents over 90% of the full time certified, state, municipal and county law enforcement officers throughout the state.

Today, it's in this these capacities that I speak in support of *LD 1123 "An Act to Create a Presumption That a Cardiovascular Injury or Disease or Pulmonary Disease Suffered by Certain Law Enforcement Officers Is in the Course of Employment"*

We are grateful to Senator Lawrence for sponsoring this bill as well as its co-sponsors in support of a critical matter affecting all first responders. This bill will provide peace of mind for Maine law enforcement officers and their families as well as bring parity to our fellow first responders in Maine.

A rebuttable presumption for Maine's law enforcement officers recognizes a clearly established connection between the incredible stress and trauma these men and women experience on a daily basis and its effects on their mental, emotional and physical wellbeing.

Being already recognized by the Maine Legislature in granting the same presumption to Maine firefighters, this bill will do the same and codify the protection necessary for the brave and committed men and women serving the State of Maine.

A proven and direct correlation exists between the constant and cumulative demands placed on law enforcement officers over the course of their 20-25 years of service. Although some see their achievement as a windfall of pension and retirement at an earlier age than some other professions, the tradeoffs to this are men and women who have one of the highest rates of Post Traumatic Stress Disease (PTSD), alcoholism, divorce, and suicide in the United States, and can expect a shorter natural life expectancy than the citizens they serve by approximately 20 years.

Website: www.maineassociationofpolice.com

No one calls the police when things are going well. Law enforcement officers are constantly faced with people in crisis, victimization at all age and socio-economic levels. They themselves face the very real eventuality that they may be injured, permanently disabled or killed in the line of duty. All this while political and ill informed efforts to hold them accountable, ultimately put them in further peril in their duties. This phenomenon over the last 4 years has lead to record numbers of resignations, retirements, low morale and the inability of agencies across the nation to fill vacant positions.

In Maine we are not immune. We are facing a statewide shortage of committed people seeking to be the next generation of law enforcement officer and in some instances, losing more people than we are able to recruit or hire. One has only to open their local paper to understand that this is a trajectory we cannot sustain or accept. The people of Maine expect that their safety is never in jeopardy and those that remain in our ranks have been beset with long hours, irregular schedules, time taken away from their families, and the stress that comes with constantly being scrutinized by narratives having no connection or basis in Maine.

There has been large strides made by previous legislatures in recognizing the palpable toll all our first responders face; including law enforcement, fire/EMS services, dispatchers and corrections. There already exists a rebuttable presumption for PTSD under Worker's Compensation however, the fact that it still remains on "life support" under a sunset provision, it exists nonetheless. I use the term life support, not as hyperbole, but as the very description of what the presumption provides to those in crisis.

Currently, there are over 28 states in the country that have some form of presumption for hypertension, heart and pulmonary diseases. Cardiac death is also recognized by the Federal Public Safety Officers Benefits Guidelines enacted into law which provides for a line of duty death benefit if an officer dies of a cardiac event within 48 hours of a precipitating event. I can say that from our membership we have at least one officer whose name appears on the National Law Enforcement Officers Memorial due to his untimely death of a cardiac event after a SWAT training. This federal benefit, and its recognition of this type of presumption provided financial stability and some comfort Sgt, Rick Better's family who gave as much to this profession as their father did; up to and including his life.

This committee has the ability to bring Maine up to date with the country and our federal government in supporting LD1123. In a time in this country where many officers who face protracted or permanent disability feel as though their families would have been better off if they had actually lost their lives, this presumption is timely, necessary and recognizes the sacrifices made in service to the people of Maine.

On behalf of the MLEC and MAP, I would urge and hope for the committee to vote "Ought To Pass".

Thank You for your time and I will be happy to answer any questions.

Sincerely,



Paul D. Gaspar
Executive Director
Maine Association of Police
Maine Law Enforcement Coalition.

CODE PART:
Maine Revised Statutes
Title 39-A: WORKERS' COMPENSATION
Chapter 7: PROCEDURES

Maine Legislative Website

DESCRIPTION:

Sec. 328.

Cardiovascular injury or disease and pulmonary disease suffered by a firefighter or resulting in a firefighter's death

Cardiovascular injury or disease and pulmonary disease suffered by a firefighter or resulting in a firefighter's death are governed by this section.

1. Firefighter defined. For the purposes of this section, "firefighter" means an active member of a municipal fire department or of a volunteer firefighters association if that person is a member of a municipal fire department or volunteer firefighters association and if that person aids in the extinguishment of fires, regardless of whether or not that person has administrative duties or other duties as a member of the municipal fire department or volunteer firefighters association.

2. Presumption. There is a rebuttable presumption that a firefighter received the injury or contracted the disease arising out of and in the course of employment, that sufficient notice of the injury or disease has been given and that the injury or disease was not occasioned by the willful intention of the firefighter to cause self-injury or injury to another if the firefighter has been an active member of a municipal fire department or a volunteer firefighters association, as defined in Title 30-A, section 3151, for at least 2 years prior to a cardiovascular injury or the onset of a cardiovascular disease or pulmonary disease and if:

1. The disease has developed or the injury has occurred within 6 months of having participated in fire fighting, or training or drill that actually involves fire fighting; or
2. The firefighter had developed the disease or had suffered the injury that resulted in death within 6 months of having participated in fire fighting, or training or drill that actually involved fire fighting.

What is the Heart Bill? - Massachusetts

The Heart Law presumption, commonly called the "Heart Bill" presumes that a police officer's heart ailment is work-related for purposes of accidental disability retirement, unless there is sufficient evidence to rebut it. In other words, if you have a heart ailment (e.g., you have a heart attack), you are entitled to accidental disability retirement benefits unless the entity opposing the presumption can provide "competent evidence" proving that it was not work related. Even if there is absolutely no evidence that the impairment is work-related, the presumption stands. Attempts to overcome the presumption by pointing out numerous risk factors such as high cholesterol, obesity, or smoking are typically unsuccessful because the mere existence of risk factors does not in and of itself rebut the presumption. The impact of the risk factors must include substantial evidence of how the risk factors affected the individual.

Even in the event that a heart ailment could not be said to have arisen in the line of duty, Massachusetts law provides that if a pre-existing condition is accelerated as a result of a hazard on the job, causation for the injury is established, even if the pre-existing condition is not work-related. For example, court cases have ruled that a police officer's hypertension was exacerbated by normal police duties and thus work-related and that a fire fighter's degenerative disc disease was exacerbated by working on a fire truck and thus work-related.

Furthermore, if you have a collective bargaining agreement that applies the Heart Law presumption to "injured-on-duty" leave, you may be entitled to 111F leave if you have a heart ailment and decide to go back to work. For example, if you have a heart attack and take 4 weeks to recover, you may be entitled to receive 111F pay for that time period instead of being forced to use your sick days. You should contact your union representative if you believe this may affect you.

LABOR CODE SECTION 3212.5, PRESUMPTIONS FOR HEART AND PNEUMONIA – State of California

In the case of a member of a police department of a city or municipality, or a member of the State Highway Patrol, when any such member is employed upon a regular, full-time salary, and in the case of a sheriff or deputy sheriff, or an inspector or investigator in a district attorney's office of any county, employed upon a regular, full-time salary, the term "injury" as used in this division includes heart trouble and pneumonia which develops or manifests itself during a period while such member, sheriff, or deputy sheriff, inspector or investigator is in the service of the police department, the State Highway Patrol, the sheriff's office or the district attorney's office, as the case may be. The compensation which is awarded for such heart trouble or pneumonia shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits as provided by the provisions of this division. Such heart trouble or pneumonia so developing or manifesting itself shall be presumed to arise out of and in the course of the employment; provided, however, that the member of the police department, State Highway Patrol, the sheriff or deputy sheriff, or an inspector or investigator in a district attorney's office of any county shall have served five years or more in such capacity before the presumption shall arise as to the compensability of heart trouble so developing or manifesting itself. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

Such heart trouble or pneumonia so developing or manifesting itself in such cases shall in no case be attributed to any disease existing prior to such development or manifestation.

The term "members" as used herein shall be limited to those employees of police departments, the California Highway Patrol and sheriffs' departments and inspectors and investigators of a district attorney's office who are defined as peace officers in Section 830.1, 830.2, or 830.3 of the Penal Code.

34 USC Subtitle I, CHAPTER 101, SUBCHAPTER XI: PUBLIC SAFETY OFFICERS' DEATH BENEFITS From Title 34—CRIME CONTROL AND LAW ENFORCEMENT Subtitle I—Comprehensive Acts CHAPTER 101—JUSTICE SYSTEM IMPROVEMENT SUBCHAPTER XI—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

(k) Death by heart attack, stroke, or vascular rupture; presumption As determined by the Bureau, a heart attack, stroke, or vascular rupture suffered by a public safety officer shall be presumed to constitute a personal injury within the meaning of subsection (a), sustained in the line of duty by the officer and directly and proximately resulting in death, if— (1) the public safety officer, while on duty— (A) engages in a situation involving nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity; or (B) participates in a training exercise involving nonroutine stressful or strenuous physical activity; (2) the heart attack, stroke, or vascular rupture commences— (A) while the officer is engaged or participating as described in paragraph (1); (B) while the officer remains on that duty after being engaged or participating as described in paragraph (1); or (C) not later than 24 hours after the officer is engaged or participating as described in paragraph (1); and (3) the heart attack, stroke, or vascular rupture directly and proximately results in the death of the public safety officer, unless competent medical evidence establishes that the heart attack, stroke, or vascular rupture was unrelated to the engagement or participation or was directly and proximately caused by something other than the mere presence of cardiovascular-disease risk factors.

References to Links informing remarks;

- 1.) [Blood pressure in firefighters, police officers, and other emergency responders - PubMed \(nih.gov\)](#)
- 2.) [052808.3 PresumptionforDutyRelatedIllness-Presentation_prelim.pdf \(wa.gov\)](#)
- 3.) [chubb-workers-comp-occupational-disease-state-tracking-chart.pdf](#)
- 4.) [Presumptive Benefits in Workers' Compensation | American Academy of Actuaries \(actuary.org\)](#)
- 5.) [Insights-Research-Brief-Presumptive-Coverage.pdf \(ncci.com\)](#)
- 6.) [General Law - Part I, Title IV, Chapter 32, Section 94 \(malegislature.gov\)](#)
- 7.) [https://www.officer.com/command-hq/supplies-services/healthcare/article/20998653/heart-disease-and-law-enforcement](#)
- 8.) [34 USC Subtitle I, CHAPTER 101, SUBCHAPTER XI: PUBLIC SAFETY OFFICERS' DEATH BENEFITS \(house.gov\)](#)